



» PALESTINE

Report on Violence against Women in the Context of Conflict

Legal Framework

The Palestinian legal framework has an unusually unsettled status due to the continued Israeli occupation of large parts of the Palestinian territories, and the Palestinian Authority's lack of control and sovereignty over the land and people within its jurisdiction. The legal framework consists of layers of laws from different jurisdictions through history, including Customary Law and Ottoman law as well as British, Jordanian, Egyptian and Israeli law. The Basic Law, the first proposed constitutional project of a future Palestinian state, was formulated in 2002 yet remained static until 2003. The amended Basic Law of 2003 currently operates as a temporary working constitution in the transitional period. It includes a provision on non-discrimination based on race, sex, colour, religion, political opinion or disability.

A draft Palestinian penal code is currently being deliberated with a broad range of actors, but has not yet been approved. Further, the "Family Protection from Violence" law, a comprehensive law criminalising violence against women, including domestic violence, sexual violence and human trafficking, has been submitted to the Council of Ministers by the Ministry of Women's Affairs, as part of an initiative taken by a number of women's rights and human rights organizations. In 2013, the draft law was incorporated into the legislative agenda of the Council of Ministers; still awaiting its approval. Despite continued efforts by civil society organizations to put pressure on decision-makers to develop and approve laws and regulations, the situation on the ground remains precarious. This is particularly due to the incapacitation of the Palestinian Legislative Council (PLC) since the 2007 division between the West Bank and Gaza governments, which has led to the imprisonment of members of the PLC by Israeli occupation authorities and thwarted any legislative progress.

Although the draft penal code criminalises so-called "honour crimes", particularly murder, this criminalisation is not endorsed by the legislature. Furthermore, although certain legal provisions¹ allowing for exoneration and mitigation of excuses for commuting the sentences of those committing honour crimes, have all been suspended by presidential decree, Palestinian courts rarely consider this suspension and several legal loopholes for reduced punishment for "honour crimes" still exist.

After becoming a non-member observer state in the United Nations in 2012, Palestine signed some 21 international treaties and conventions, including the CEDAW that was ratified in 2014 without reservations. The initial national report to CEDAW, supposedly due on 2 May 2015, has yet to be submitted (November 2015). Palestinian women's rights organizations are currently in the process of drafting a shadow report to the CEDAW committee. Palestine ratified the

¹ [Articles 340 and 98 of the 1960 Jordanian Penal Code and Article 18 of the British Mandate Criminal Code Ordinance, No. 74 of 1936, which is applicable in the Gaza Strip.](#)



Rome Statute and thereby officially joined the International Criminal Court (ICC) on 1 April 2015. It subsequently made its first submission of evidence of alleged Israeli war crimes against Palestinian civilians - including women - that result from the occupation, on 25 June 2015.

The Prime Ministry and the Ministry of Women's Affairs are currently working to adopt a National Action Plan (NAP) for the implementation of UN Security Council Resolution 1325. In the meantime, some governmental and CSO initiatives have been taken to implement it². Furthermore, a coalition of 64 Palestinian women's and human rights organisations under the leadership of the General Union of Palestinian Women (GUPW) prepared and submitted a proposed NAP to the Ministry of Women's Affairs which included it into the general Action Plan.

Palestine has not ratified the Council of Europe Istanbul Convention on Violence against Women and Domestic Violence and Palestinian national laws have not yet been harmonized with the international conventions Palestine has ratified.

Political Framework

The Palestinian Central Bureau of Statistics (PCBS) conducts population surveys, including surveys on domestic violence. The latest survey on violence from 2011³ shows that 37.0% of married women were exposed to one form of violence by their husbands in the last 12 months. In the West Bank, violence rates were highest in Jericho and Al-Aghwar (47.3%), and lowest in Ramallah & Al-Bireh Governorate (14,2%). In the Gaza Strip, the highest rate was in the Gaza Governorate (58.1%), while the lowest rate was in Rafah Governorate (23.1%).

The results also showed that around 5% of women were subjected to psychological violence in the street, 1.3% was subjected to sexual harassment, 0.6% was subjected to physical violence, while 4.0% were subjected to psychological abuse by service providers in public services centres. 65% of the women subjected to violence preferred to remain silent about the crime. The documentation of complaints and cases of violence against women includes only those cases filed with the Palestinian courts. Furthermore, the extent of the authorities' investigation of forms of violence is not clear or accurately documented.

A cross-sectoral "National Strategy to Combat Violence Against Women" valid until 2019 is in place. Implementation mechanisms for the plan exist but its enactment is nevertheless partial and selective⁴, despite the involvement and contributions of human rights and women's rights organizations in deliberating and preparing the strategy.

Prevention of violence and the training of professionals in contact with victims

The Police Academy has a curriculum on the protection of women's rights. Training programs on women's rights, the protection of battered women and safe referral mechanisms also exist for service providers in the social service and health sectors. However, the current trainings offered to justice professionals on women's rights remain partial, as they are not conducted in accordance with a clear comprehensive and sustainable strategy that aims at consolidating and developing their capacities in this field.

Many national awareness raising campaigns on ending violence against women are being implemented by local women's rights and human rights organizations. Some campaigns are aimed towards Palestinian decision-makers, while others target university students, youth and housewives, in order to change the prevalent cultural stigma attached to violence against women. The Ministry of Women's Affairs has also conducted several campaigns over the past 3 years, most prominently on the International Day for the Elimination of Violence Against Women on 25 November.

² See: https://www.kirkensnodhjelp.no/contentassets/babdd17d712344e4a417e6dde3100ce2/unscr-1325_implementation-in-israel-and-palestine-2000-2009+.pdf, page 23-39

³ See the full survey here: http://www.pcbs.gov.ps/PCBS_2012/Publications.aspx

⁴ According to the "National Strategy to Combat Violence Against Women 2011-2019", many factors still play a role in discouraging women from reporting to the police such as the absence of special reception areas for women that would provide privacy. Other factors include the lack of specialized personnel and thus the inability of prosecutors/police to deal with such cases, as well as the lack of confidentiality measures in the police departments.



Protection framework and Access to Justice

Counselling, psychological support and empowerment services

Most of the existing hotlines and shelters for battered women are managed by the Ministry of Social Affairs. Only one CSO, the Women's Centre for Legal Aid and Counselling (WCLAC), runs an emergency protection shelter, and provides social and legal services to women victims of violence, including an emergency helpline. Counselling services, psychological support and empowerment services are also provided by various other women's organizations with funding from foreign donors in coordination with the Ministries of Social Affairs and Women's Affairs.

There are no legal measures in place allowing authorities to order perpetrators of domestic violence to leave or stay away from the victim's residence. Some women's centres in Gaza, however, receive victims and provide them with protection in coordination and cooperation with the Family Protection Unit of the Police Department, the Ministry of Social Affairs and the Governorate. The Family Protection Units (FPUs) of the Palestinian Police Department can issue certain orders and apply certain measures and procedures to protect victims of violence from aggressors. Relevant parties, such as police, health and social workers, specialized women's rights organizations and municipality officials usually meet to estimate the severity of a situation, before any decision is taken to remove a victim from the location of the violence or have the aggressor and his relatives sign a guarantee not to harm the victim or come near her.

The National Referral System for Battered Women «TAKAMOL», a legal-health-social service referral system for women victims of violence in Palestine, was initiated in 2009 upon initiative from local CSOs and developed by WCLAC and Juzoor Foundation for Health and Social Development. In 2012, the Ministry of Social Affairs and the Ministry of Women's Affairs submitted the legal framework for the referral system for approval by the Cabinet. It was officially endorsed by the Prime Ministry in late 2013 and its use is now mandatory for all centres providing services for battered women as well as for the police, health and social affairs sectors.

Access to a non-discriminatory judicial and police system

Women can file complaints about gender-based violence with Palestinian courts. However, many abstain from filing such complaints, especially to the Police Family Protection Unit, due to the lack of confidentiality measures in the police departments but also out of fear of unrelenting social stigmatization and of losing their family and the respect of people in their community. Only few women's rights organizations can support victims by providing free legal assistance. In cases of sexual harassment and assault, women's testimonies are considered equal to that of men, and even sometimes outweigh it, unless a decision-maker intervenes to refer or repeal the case or pressures the battered woman to drop the case.

The impunity of state agents for violence against women remains an invisible issue and such incidents are covered up and not talked about. The main problem here lies in the lack of separation of the judicial and executive powers.

A judge cannot investigate ex officio violence against women, including domestic violence in the public interest of fighting this type of violence if the case is dropped or withdrawn by the victim. In addition, some judges still have traditional views on violence against women, which affect their verdicts in domestic violence cases. Judges often exercise their judicial discretion in ways unfavourable to women victims of violence. Extensive work is therefore needed to address the attitudes of members of the judiciary. No formal alternative resolution mechanisms exist.

Special vulnerabilities

The National Strategy to Combat Violence Against Women has addressed the reality of violence against women in general terms. However, women do not constitute a unified and homogenous group, and thus refugees, prisoners, divorced women, widows as well as the wives of prisoners and martyrs, and elderly women are more vulnerable to violence and abuse, and have less access to health, education services and appropriate job opportunities.

Women with disabilities are also more vulnerable to both domestic and community violence. There are no accurate statistics and data concerning women with disabilities, and there are no special protection systems in place for them. While some specialized organizations are currently providing them with protection and support, their services remain insufficient, compared to the required needs and priorities of disabled women. This despite the existence of the safe referral system developed at the end of 2013, which includes a special protocol on women with disabilities. Furthermore, the legislature has approved a 5% quota for integrating people with disabilities in all institutions, as part of a strategy to integrate women in the workforce. However, this has not yet been implemented.



There is no special protection system in place for young girls and minors in the national system, although the Ministry of Social Affairs offers specialised sheltering services to care for this group⁵. No accurate data is available on the situation of violence or protection against violence available for single and rural women.

The extent of the phenomenon of trafficking of young women, including minors and girls who are forced into prostitution remains undetermined, despite efforts made by CSOs and official bodies to monitor such cases. An increased prevalence of prostitution, however, has been tracked in various areas of the West Bank and Jerusalem. Protection services targeting this particular group are inexistent and the phenomenon is still new and hidden⁶. As for LGBTI individuals, representing another taboo in Palestinian society, mechanisms of protection are not state-driven, but a few Palestinian CSOs - mainly Israel-based – offer assistance with counselling and hotlines.

Violence against women in the context of the Israeli occupation

The situation of violence against women in Palestine is complicated and exacerbated by the structures and policies of the Israeli military occupation that are directed against Palestinians. Palestinian feminist scholars have demonstrated that the violence of Israeli military occupation promotes and strengthens patriarchal power within the Palestinian domestic sphere. Israeli violence perpetrated against Palestinian men thus often turns into acts of violence committed against women by those same men.

A primary example of an Israeli occupation policy that exacerbates violence against women is the fragmentation of geopolitical space, which has allowed confiscation of land and resources to continue unabated – disrupting both the lives and livelihoods of Palestinian women. All in an attempt to obstruct the social fabric of communities, in turn enabling violence against women and making it a widespread phenomenon. In addition, this fragmentation has jeopardized women's access to justice for various forms of gender-based violence by disrupting community-based support systems, restricting freedom of movement and social service delivery⁷.

As the occupying power, Israel has an obligation in accordance with International Humanitarian Law (IHL), to protect women in the occupied Palestinian territories (oPt) against violence. It is also bound by and thus responsible for implementing the CEDAW and other relevant international conventions pertaining to the rights of women. In practice, however, Palestinian women, particularly in remote and marginalised areas are directly exposed to violence committed within the framework of the Israeli occupation. Palestinian women are deliberately killed in Israeli military operations such as the 2009 Operation Cast Lead as well as the recent 2014 operation Protective Edge in Gaza, where 257 women were killed and 2088 wounded⁸. Women in the oPt are also subject to various forms of violence by the Israeli army at check points, and continuously run the risk of arbitrary arrests, harassment and verbal abuse. They are also subjected to the demolition of their homes, the denial of freedom of movement and consequent lack of access to maternal and other health services. Furthermore, during a twelve-month period in 2014, 71.2% of Jerusalemite women experienced various forms of violence from occupation forces or settlers, whereas the percentage reaches 91.5% for women who live near settlements and respectively 49.2% and 30.7% for those living next to the Separation Wall and in the Jordan Valley. Also, the majority of female prisoners were subject to physical violence during their arrest and incarceration period, and 88.5% to verbal harassment⁹.

Finally, the Israeli occupation and the lack of an independent and sovereign Palestinian State prevents the Palestinian authorities from exercising full authority over all parts of its territories including East Jerusalem. This affects their ability to fulfil their responsibilities in the areas of prevention and protection of women from all types of violence and securing women's access to justice.

⁵ See the report, “Access Denied” by UN Women (2014). It mentions a couple of programs offered by the Ministry of Social Affairs, but also heavily criticizes their practices - including sending women back to their homes in some cases of rape and sexual assault.

⁶ Trafficking and Forced Prostitution of Palestinian Women and Girls: Forms of Modern Day Slavery, Sawa - All the Women Together Today and Tomorrow & UNIFEM - <http://www.refworld.org/pdfid/4bcc13862.pdf>

⁷ “Access Denied”, UN Women Report: http://palestine.unwomen.org/~media/field%20office%20palestine/attachments/publications/2014/access%20denied_en.pdf

⁸ Occupied Palestinian Territory: Gaza Emergency Situation Report (as of 4 September 2014, 08:00 hrs), OCHA oPt https://www.ochaopt.org/documents/ocha_opt_sitrep_04_09_2014.pdf

⁹ MIFTAH discusses findings on violations against women in the West Bank <http://www.miftah.org/Display.cfm?DocId=26315&CategoryId=36>



Combating violence against women in the framework of European Union – Palestine and Israel relations

Palestine is part of the European Neighbourhood Policy (ENP) launched in 2004. Within this framework, EU-PA relations are based on the EU-PA action plan drawn up in 2005 and updated in 2013.

EU-PA relations

Protection of women's and girls' rights including through the elimination of all discriminatory provisions in national legislation is identified as one of the priority objectives in the EU-Palestinian Authority Action Plan¹⁰. To achieve this objective, the EU has included as a benchmark the full implementation of the Palestinian National Strategic Plan on combating Violence against Women and the rate of women's participation in the economy. To monitor progresses in this regard, the EU plans to use as indicators the yearly ENP Progress reports as well as the CEDAW and Istanbul Plan of Action reports. Since 2014¹¹, the EU has called on the Palestinian Authority to develop and implement a policy to address violence against women and women's socio-economic vulnerability.

In the framework of EU-PA relations, the EU also provides funding for various programmes on VaW in Palestine. This is done in line with instruments such as the EU Plan of Action on Gender Equality and Women's Empowerment in Development 2010-2015, the more recent Gender Equality and Women's Empowerment Strategy covering 2016-2020¹², as well as the EU Guidelines on Violence Against Women and Girls from 2008. In addition to the regional cooperation program "Spring forward for women" which also covers Palestine, the EU provides financial assistance to Palestinian CSOs dealing with the issue of gender-based violence through the European Instrument for Democracy and Human Rights (EIDHR) with an overall financial support of €1.5 million. Over a period of 10 years (2007-2017), the EU is funding projects targeting women's rights and gender equality for a total of about 18 million Euro, of which more than 2 million are devoted to combating VaW and strengthening the role of women in conflict resolution. Furthermore, the independent Palestinian TV Network Ma'an received a 1 million Euro grant from the British government in 2015 to air shows tackling tabooed subjects, such as marital rape over the coming three years.

EU-Israel relations

The EU does not address violence against Palestinian women or more broadly Israel's responsibility towards Palestinian women in the OPT in its policy dialogue with Israel.

¹⁰ [Priority objective 3\) see http://eeas.europa.eu/enp/pdf/pdf/action_plans/pa_enp_ap_final_en.pdf](http://eeas.europa.eu/enp/pdf/pdf/action_plans/pa_enp_ap_final_en.pdf)

¹¹ [See 2014 and 2015 ENP Progress Reports for Palestine.](#)

¹² [Gender Equality and Women's Empowerment: Transforming the Lives of Girls and Women through EU External Relations 2016-2020](#)



Recommendations

Recommendations to the Palestinian Authority

- Improve the legislative and legal system in compliance with international human rights obligations, especially in relation to the Penal Code and the Personal Status Law;
- Enact and approve the draft Palestinian Penal Code, which was prepared by the Ministry of Justice in consultation with a number of women's and human rights organizations;
- Approve and adopt the draft law "Family Protection From Violence";
- Follow-up on the implementation of the National Strategy to combat VaW;
- Implement the cross-sectoral gender strategy to fight discrimination against women including in the areas of education, health and employment.

Recommendations to the EU

With regards to Palestine, the EU should:

- Support the full implementation of the Palestinian National strategy to combat VaW;
- Ensure, through the work of EUPOL COPPS with the Palestinian Civil Police, that Family Protection Units include special reception areas for women and personnel adequately trained on confidentiality measures to be used in cases of VaW;
- Continue its support to civil society in the fight against VaW, while showing understanding for the challenges on the ground;
- Support the implementation by the PA of UNSCR 1325 through the elaboration and subsequent implementation of a National Action Plan.

With regards to Israel, the EU and EU Member States should:

- Address the specific impact of Israel's violations of IHL and IHRL on Palestinian women in its bilateral dialogue with Israel (e.g. Informal Working Group on Human Rights);
- Urge Israel, as the Occupying Power, to honour its obligations towards Palestinian women in accordance with the CEDAW, including general recommendation No. 30, as well as IHL, with a particular focus on the situation of vulnerable groups of women;
- Urge Israel to abide by its international obligations to ensure independent investigations of alleged violations and crimes committed by the Israeli army and security forces against Palestinian women.

