

Assessing the Implementation of the Convention on the Elimination of all forms of Discrimination
Against Women in the West Bank and Gaza (CEDAW)
(August 2015)

Executive Summary

This report examines the Palestinian leadership's adherence to CEDAW in the West Bank and Gaza. Research shows that Palestinian leadership fails to protect women's rights both in legal code and cultural practice. Discrimination against Palestinian women stems from legal, social, and cultural patterns of conduct, facts that are supported by Jerusalem Institute of Justice (JIJ) sources and their testimonies.

There is evidence of Palestinian leadership attempting to rectify the rampant lack of women's rights and protections, as seen with the 2011 Palestinian Authority (PA) report, which outlines an 8 year strategy to counter violence against women in the Territories.¹ However, laws and strategies, while brought to the table, are poorly and inconsistently enforced. Regarding CEDAW, PA President Mahmoud Abbas symbolically signed onto the Convention in 2009,² formalized in April 2014.³ International law obligates non-state actors, like Hamas, to respect the Convention as well.⁴ From this, we conclude that both the PA and Hamas are in direct violation of the Convention.

Information for this report was obtained through news sources, NGOs, and testimonies on the role of women in Palestinian society.

EDUCATION

Within the territories, there is greater concern for the content of women's education, rather than education access.⁵ Two categories of women who face barriers to education are young, married women and rural women. Schools do not permit married or pregnant girls to attend school, and if they do permit it, the girls' husbands have the authority to forbid it.⁶ A West Bank hospital says that women from rural areas are less likely to attend school than women in urban areas,⁷ though a report from one Palestinian Christian woman challenges this, stating that 90% percent of the female students at Bethlehem University come from village communities.⁸

GENDER SEGREGATION

In Gaza, all schools (private or UNRWA) are gender segregated by law, resulting in 2 key issues: a) An uncertainty on the equality of content and quality of materials for both male and female students, and b) Given that male teachers cannot teach female students, girls are denied access to the resources made available to male students. In the West Bank, most schools are gender segregated due to a cultural norm of women preferring single-sex schooling, and not necessarily due to gender segregation laws.⁹ However, single-sex schooling and segregation contributes to gender-based violence and the sexualization of women within Palestinian culture.¹⁰

JIJ's sources report that boys' schools in both the West Bank and Gaza perpetuate gender role stereotypes — specifically that women should stay home and obey her husband.¹¹ One source shares that he was taught that Palestinian martyrs would be rewarded with 72 virgin women in paradise, a lesson that not only sexualizes and

¹ *National Strategy to Combat Violence Against Women 2011-2019*, Palestinian National Authority Ministry of Women's Affairs. Accessed 7 July 2015. <http://www.unwomen.org/~media/headquarters/media/stories/en/palestinianauthoritynationalstrategytocombatpdf.pdf>.

² Stephanie Chaban, "Promoting Gender-Sensitive Justice and Legal Reform in the Palestinian Territories: Perspectives of Palestinian Service Providers," *Journal of International Women's Studies* 12, no. 3 (2011): 150-167. <http://vc.bridgew.edu/cgi/viewcontent.cgi?article=1118&context=jijs>.

³ "United Nations Treaty Collection Chapter IV," *United Nations Treaty Collection*. Accessed 13 July 2015. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en.

⁴ Non-state actors are bound to respect international human rights law because such laws are designed to be universally applied and because the international community considers such laws to be applicable to non-state actors. More information on this topic is available in a report entitled "Hamas and the International Human Rights Law" published by the Jerusalem Institute of Justice in April 2015, which is available at: <http://jij.org/wp-content/uploads/2015/04/Hamas-and-the-International-Human-Rights-Law-4-27-15-with-edits.pdf>.

⁵ Interview with R., West Bank NGO representative, Ramallah, 28 April 2015.

⁶ Ibid.

⁷ Interview with W., West Bank hospital representative, Bethlehem, 19 May 2015.

⁸ Interview with V., Palestinian woman from Jerusalem, 20 July 2015.

⁹ Interview with R.

¹⁰ Interview with P., man raised in Gaza, West Bank, 17 May 2015.

¹¹ Second interview with P., West Bank 12 July 2015.

objectifies women, but glorifies violence.¹² Yet another source reports that messages in today's schools are changing: "They keep changing, developing the textbooks... Now it's also the girl that exists in the books; not only the boy."¹³

In addition, CEDAW stipulates that education must include sexual education; however it is clear that sexual education is severely lacking in both the school system and at home due to the issue of sex being regarded as taboo in much of Palestinian culture.¹⁴

EMPLOYMENT

Article 11 of CEDAW states that all appropriate measures must be taken to eliminate discrimination against women in the workforce, yet heavy restrictions are placed on women relating to the fields they can work in, which not only bars women from certain professions but strips them of opportunities open to men. A number of resolutions (including those from the Council of Ministers and Palestinian Labor Laws) call for restrictions on the hours women are permitted to work, not only reinforcing gender-based discrimination but also encouraging women to fear 'dangerous night hours' (Palestinian Labor Law No. 7 - 2000).

Women are less involved in the workforce than men due to these legal restrictions, as well as cultural standards. In the West Bank (2013), 25.9% of women were unemployed compared to 16.8% of men. In Gaza, 53.1% were unemployed compared to 27.8% of men.¹⁵ The driving factor for the gap in women's employment is explained by several sources: in Palestinian culture, the woman's place is in the home with her children.¹⁶ Should a woman try to go against those cultural norms, she faces severe discrimination from her family and community. However, there are some who believe the cultural norms are changing for the better, with one source explaining that now, men inquire into a woman's profession — today it is smiled upon to be active participants of one's society.¹⁷

Despite these positive developments, for those women who do work, heavy discrimination is still reported. In Gaza (2009), 32.5% of working women reported exploitation and discrimination, with the PA recognizing verbal abuse, sexual harassment, and discrimination against pregnant women.^{18,19}

HONOR KILLINGS

Honor Killings are motivated by suspicion or knowledge of extramarital affairs and pregnancies.²⁰ They are common in both the West Bank and Gaza, with approximately 27 cases reported in 2013.²¹ Data gathered from the West Bank from 2005 to 2006 indicates the killings are carried out through several methods, including poisoning, stabbing, and strangling. JIJ sources in the West Bank report that the practice of honor killing is perpetuated by Palestinian officials who use the threat of death to manipulate civilians to do their bidding.²²

One source explains that though honor killings are still prevalent, at least now attitudes towards them have changed. Whereas once a community would say 'she deserved it', individuals are now starting to speak out against the practice.²³ Certain legal efforts have been made to combat the practice, including Abbas' decision to suspend two laws that 'excused' the actions of men who committed honor killings.²⁴ Yet, though laws have been changed to accommodate these new ideas, the problem lies in the culture itself. According to one JIJ source, honor killings is a practice taught and enforced by the Koran and its culture.²⁵

HUMAN TRAFFICKING AND PROSTITUTION

¹² This testimony was backed up in "Martyrs Rewarded with 72 Virgins," *Palestinian Media Watch*. Accessed 13 July, 2015. <http://palwatch.org/main.aspx?fi=565>.

¹³ Interview with V.

¹⁴ Salwa G. Massad, et al., "Perceptions of Sexual Risk Behavior among Palestinian Youth in the West Bank: A Qualitative Investigation," *BMC Public Health* 14 (2014): 1213.

¹⁵ See website of Palestinian Central Bureau of Statistics. http://www.pcbs.gov.ps/site/lang_en/881/default.aspx#Labour. Accessed 6 July 2015.

¹⁶ Interview with J., a West Bank father, June 2015.

¹⁷ Interview with V.

¹⁸ "National Strategy to Combat Violence Against Women 2011-2019," p.16.

¹⁹ Interview with V.

²⁰ Pernilla Ouis and Myhrman Tove, eds., *Gender-Based Sexual Violence Against Teenage Girls in the Middle East*, Beirut: Save the Children, 2007, p.71. http://essex.ac.uk/armedcon/story_id/000784.pdf.

²¹ Anne-Marie O'Connor, "Honor Killings Rise in Palestinian Territories, Sparking Backlash," *The Washington Post*, 3 March 2014.

http://www.washingtonpost.com/world/middle_east/honor-killings-rise-in-palestinian-territories-sparking-backlash/2014/03/02/1392d144-940c-11e3-9e13-770265cf4962_story.html; Lena Odgaard, "Upsurge in Palestinian 'honour killings,'" *Al Jazeera*, 25 March 2014.

<http://www.aljazeera.com/indepth/features/2014/03/upsurge-palestinian-honour-killings-gaza-201432372831899701.html>.

²² Interview with G., a man from the West Bank, 26 May 2015.

²³ Interview with R.

²⁴ Soraya Al-Ghoussein and Hannah Pratchett, "Abbas Aide: No Plans to Outlaw 'Honor Killing,'" *Ma'an News*, 24 December 2012.

<http://www.maannews.com/Content.aspx?id=550792>; Al-Mashni et al., *Palestinian Women and Security*, p. 37.

²⁵ Second interview with P.

The language used in both the Jordanian Penal Code (1960) and the Egyptian Penal Code (1936), **which are both applied by the Palestinian Authority**, fails to protect women with regards to prostitution, coercion into sexual relations, or human trafficking. Both laws claim to bar against forcing a woman to have illegal sexual intercourse, but then include the clause, “provided that such a woman is not a prostitute and is not known for her immoral character.”²⁶ Here, language is open to subjective interpretation, leaving room for exploitation and failure to protect a woman because she is accused of having an ‘immoral character’.

While the laws of the PA seem to reflect a ‘no tolerance’ approach towards sexual exploitation of women, the reality of the situation does not. According to various NGO sources, the PA is aware of the human trafficking that takes places, of the sexual exploitation in brothels and with prostitution, but does little to confront it.²⁷ Fieldwork conducted by SAWA (All the Women Together Today and Tomorrow) indicates that subjects of trafficking are usually female students of Palestinian colleges and universities; they are being trafficked by Palestinian woman 40 to 50 years of age.²⁸ Women and girls are engaging in human trafficking due to economic insecurity and limited education, among other reasons; though according to SAWA, Palestinian police claim that “the majority of women engaged in prostitution do it by their own ‘will.’” Those women who do return to their communities after engaging in prostitution are often subject to social stigma and face severe consequences, like the previously mentioned practice of honor killings.²⁹

ECONOMIC ACCESS

Despite the PA recognizing economic discrimination against women in its National Strategy to Combat Violence Against Women (2011),³⁰ many of the issues addressed are still in affect. From 2011 to 2013, nearly 100 women (from Gaza and WB) called the SAWA hotline to discuss issues of economic exploitation.³¹ A number of other Church based organizations have found that 62% of families refuse to grant women their right to inheritance when it is requested, further financially crippling these women.³² When asked why this is the case, JIJ sources explain that “these are just the social norms” in Palestinian society.³³

POLITICAL RIGHTS

While women are involved in West Bank Palestinian political life, equal male-female representation has not been reached. Certain cultural norms and legislation act as barriers to women’s total access to political and public life. Women have been recognized by PA Elections Law with having the right to political participation, and laws are in place calling for at least 20% representation in the political sphere. However, these laws are not reflected in practice; the quota system in place for women does not succeed in establishing equal representation.³⁴

Regarding political protest, women are allowed to participate, though up to a certain point — women “cannot cross the red line” in their political activism, a red line determined by culture.³⁵ Similarly, within the criminal justice system, cases are decided according to Islamic Sharia Law, which dictates that “a woman’s testimony is worth half that of a man.”³⁶ The implications of this are simple: to be heard and accepted in a court of law, a woman must be accompanied by another, preferably a man.³⁷ This also contributes to the challenge of accessing legal documentation like passports, visas, and ID cards. Though some advancements have been made, traditional practices are still looked to with regards to the passing on of national identity (restricted to men),³⁸ requiring the signature of the man for a

²⁶ Al-Mashni et al., *Palestinian Women and Security*, pp.34-35; The same penalty applies to individuals who lead or attempt to lead “A woman to leave the country to reside in, or regularly frequent a brothel, ... [a] woman to leave her ordinary place of residence in the country, provided that such place of residence is not a brothel, to reside in, or regularly frequent, a brothel inside or outside the country with a view of engaging in prostitution, ... or [a] person under fifteen (15) years of age to be sodomized.”

²⁷ Interview with B.

²⁸ *Trafficking and Forced Prostitution of Palestinian Women and Girls: Forms of Modern Day Slavery*, SAWA—All the Women Together Today and Tomorrow, 2008, p.11-14. Accessed 7 July 2015. <http://www.refworld.org/pdfid/4bcc13862.pdf>.

²⁹ *Ibid.*, p. 15.

³⁰ “National Strategy to Combat Violence Against Women 2011-2019,” p.16.

³¹ Sana D. Khsheiboun, *Helpline Provides: Support and Counseling for Women and Girls 2011-2013*, SAWA—All the Women Together Today and Tomorrow, 2013, pp. 17 and 30.

³² *Ibid.*

³³ Interview with C., West Bank NGO representative,” Bethlehem, 28 April 2015.

³⁴ Second Interview with P.

³⁵ Interview with S.

³⁶ Jallad, *Palestinian Women and Security*, p.14.

³⁷ Interview with J.

³⁸ Suheir Azzouni, “Palestine,” in *Women’s Rights in the Middle East and North Africa: Progress Amid Resistance*, edited by Sanja Kelly and Julia Breslin, New York: Freedom House; Lanham, MD: Rowman & Littlefield, 2010, p. 68. 68.

https://freedomhouse.org/sites/default/files/inline_images/Palestine%20%28Palestinian%20Authority%20and%20Israeli%20Occupied%20Territories

woman to obtain a passport,³⁹ and, as is done in Gaza, the requirement that all women carry ID cards specifying their relationship to the man they are walking with in public.⁴⁰

MARRIAGE

Within the institution of marriage, Palestinian women are stripped of their autonomy to choose a partner, in the decision of when to get married, or drawing up their own wedding contract. All are done and decided by the woman's male guardian, in contrast to men who are free to act independently.⁴¹ Lack of autonomy over marriage decisions lead to arranged marriages, which sometimes tread into the realm of forced marriages,⁴² despite both Egyptian and Jordanian legal codes banning forced marriages.

In both the West Bank and Gaza, families are able to marry off their younger daughters, despite certain laws in place that bar against the practice of child brides. While in Gaza the legal marriage age for women is 17, women in the West Bank can be legally married at 15. In both areas, a judge can permit exceptions at the request of the woman's (male) guardian. Once again, sources confirm that while laws are in place, culture and traditions take precedence: "Child marriage is normal. There is no legal age...the problem is that they do not marry in the government, they marry in the mosque..."⁴³ To get around the 'legal age' requirement for marriage, families can work with clerics who agree to officiate the marriage, then later register it with the courts once the girl comes of age.⁴⁴

Regarding divorce, law grants priority and right to the husband in both the West Bank and Gaza. Under Jordanian law, a woman can only file for divorce if her situation meets certain requirements, including if her husband has an incurable disease, is unable to consummate the marriage, or if he is unable to pay the dowry, among others. Harm or mistreatment are also grounds for a woman to request divorce; however it is left to the courts to decide what is deemed as mistreatment: 'emotional' suffering is not included. Though it does happen, the woman being able to request a divorce is the exception, not the rule. In contrast, a man can divorce his wife for "any reason",⁴⁵ with or without her consent.⁴⁶

One article of law that seems to protect women's rights in divorce states that should a woman be divorced in an "abusive manner", the woman has a right to request compensation from the judge.⁴⁷ However, this law also stipulates that if a woman is 'uncooperative' with her husband she will not be eligible for alimony. There is no equivalent clause for men.⁴⁸

Sources report that if a woman requests divorce, chances are high that she will lose all her money, and possibly her children. If a woman remarries, she can lose custody over her children entirely.^{49,50} Based on the Hanafi School of Sharia Law, Palestinian practice is that a male child, once reaching puberty, chooses which parent will have custody; custody of female children is defaulted to their fathers.⁵¹ Yet, despite this tradition, sources explain that in practice, fathers refrain from taking the children in favor of moving on with a new marriage and new family after divorce.⁵²

In both the West Bank and Gaza, adultery is illegal — with punishments for women being much harsher than for men. For example, the Jordanian legal code stipulates that punishment for a woman is between six months and two years in prison, while the man receives between one month and one year, dependent on if he had the affair in the marital home or in public. The laws of the West Bank and Gaza imply that women are held to a stricter standard of behavior than men and are therefore subject to harsher punishment, regardless of men and women behaving in the same way.

SEXUAL AND DOMESTIC VIOLENCE

³⁹ *Occupied Palestinian Territory MENA Gender Equality Profile Status of Girls and Women in the Middle East and North Africa*, UNICEF, 2011, p.2. <http://www.unicef.org/gender/files/oPT-Gender-Eqaulity-Profile-2011.pdf>.

⁴⁰ " Hamas cracks down on women walking with men in Gaza," *The Commentator*, April 29, 2013. http://www.thecommentator.com/article/3389/hamas_cracks_down_on_women_walking_with_men_in_gaza.

⁴¹ Azzouni, "Palestine," p. 11.; Al-Mashni et al., *Palestinian Women and Security*, p. 59.

⁴² Interview with P.

⁴³ Ibid.

⁴⁴ Rasha Abou Jalal, "Forced Underage Marriages Continue in Gaza," *Al Monitor*, 8 August 2013. <http://www.al-monitor.com/pulse/originals/2013/08/underage-marriage-child-palestinians-gaza.html>.

⁴⁵ *Occupied Palestinian Territory MENA Gender Equality Profile Status of Girls and Women in the Middle East and North Africa*, p.2.

⁴⁶ Jallad, *Palestinian Women and Security*, p.12.

⁴⁷ Interview with P.

⁴⁸ Interview with V.

⁴⁹ Second Interview with P.

⁵⁰ Abu Dayyeh et al., *Palestinian Women and Security*, p. 8.

⁵¹ Ibid.

⁵² Interview with S.

Statistics surrounding sexual violence in the West Bank and Gaza are staggering. In 2014, the PA reported that 53% of Palestinian women had been exposed to violence with 18% of unmarried women reporting being victims of sexual violence. 45.9% of these cases saw the woman's father as perpetrator, with 25.5% the brother as perpetrator.⁵³ From 2011, 76% of callers to SAWA's hotline were under the age of 21. Between 2011 and 2013, female callers reported a total of 10,663 cases of abuse, including domestic violence, sexual violence, attempted rape, rape, and sexual abuse within the family.⁵⁴

Incestuous relations within the territories is prohibited by both Jordanian and Egyptian Penal Codes. Yet despite the legal prohibitions, a culture of incest still permeates Palestinian life, especially in more rural areas where traditional practices of marrying within the family, as a means of protecting the dowry, are continued.⁵⁵ Regarding incestuous rape, one source estimates that, in Bethlehem, between 50 and 80 babies are born each year as a product of intra-family rape.⁵⁶

Certain cultural views on rape and sexual violence prevent women from getting the help they need. Palestinian culture is one of many that normalizes sexual abuse, thereby instilling a fear in women about speaking out. This is reflected in a legal clause of the Jordanian Penal Code that states a perpetrator will escape prosecution if he marries his victim for 3 to 5 years. Some sources argue in favor of this practice, saying that it may be in the woman's best interests socially — the woman protects herself by marrying her perpetrator and keeping her honor in tact.⁵⁷

Overall, West Bank and Gaza law do not provide complete definitions of what sexual crimes are, therefore leaving too much open to legal loopholes. As well, certain terms are too loosely defined, like 'rapist', which is defined in the Jordanian Penal Code as anyone who has "forced sexual intercourse with a female, other than his wife" — implying marital rape is legal and acceptable. The language used in both the Jordanian and Egyptian legal codes is ambiguous and leaves too much to subjective interpretation.

The only legal codes that address domestic violence in West Bank and Gaza are the Palestinian Women's Bill of Rights (2008) and the Draft Law for Family Protection Against Violence (2009). Both are rarely referenced in reports on Palestinian women, and only the Bill of Rights actually addresses sexual harassment. All of this is testament to the fact that sexual and domestic violence are issues that are widely ignored by the PA and Palestinian law.

When asked why the hesitation to report crimes, those interviewed responded that speaking up about sexual violence is useless in the best case scenario, and at worst, speaking up would exacerbate the situation. As well, many Palestinian women are unaware of the resources available to them to report cases of sexual violence, or simply fear the backlash of family humiliation and societal shame.⁵⁸

A key JIJ source laments that Palestinian culture is a culture of silence, arguing that most Gazan children have suffered abuse of some kind^{59,60} and that it would be a severe mistake to take the silence received on the issue to mean that abuse does not exist.

SOCIAL STEREOTYPES AND GENDER NORMS

Gender norms and roles are reinforced by cultural practices and social stereotypes; specifically, rural villages adhere to more conservative, traditional gender relations. This translates to an immense cultural gap, where women do not have access to the same rights as men, or as the women from the cities.⁶¹ However, these cultural norms are supported in both Jordanian and Egyptian Penal Codes, where the woman "must obey her husband" and the husband must "consort with his wife in kindness and treat her with courtesy."⁶²

RECOMMENDATIONS

The Palestinian Authority and Hamas should arrange for an independent task force to conduct thorough reviews of laws in the West Bank and Gaza pertaining to women, specifically focusing on those dealing with sexual and domestic violence, divorce rights, and the protection of the rights of young girls. Under the recommendations of the task force, and guidance by experts of women's issues and law, all laws should be either annulled, revised, or rewritten, and all should adhere to international standards for women's rights. Palestinian leadership should ensure

⁵³ "PA Daily Reports on Study: 53% of Palestinian Women Have Suffered from Violence," *Palwatch*, 28 November 2014. <http://palwatch.org/main.aspx?fi=587>.

⁵⁴ Khsheiboun, *Helpline Provides: Support and Counseling for Women and Girls 2011-2013*, p.17 and p. 30.

⁵⁵ Interview with W.

⁵⁶ To learn more about children in incestuous sexual relationships, read JIJ's 2015 report on the rights of the child: *Sons of Violence: A Review of Palestinian Authority and Hamas Violations of Children's Rights in the West Bank and Gaza*.

⁵⁷ Interview with C., Bethlehem, 28 April 2015

⁵⁸ Ibid.

⁵⁹ Interview with P.

⁶⁰ Interview with W.

⁶¹ Interview with R.

⁶² Al-Mashni et al., *Palestinian Women and Security*, p. 48

enforcement for all laws pertaining to women's rights. In conjunction with NGOs, Palestinian leadership should establish programming to positively influence cultural attitudes towards women and women's rights. To encourage women to work outside the home, Palestinian leadership should provide incentives in the form of tax breaks for working women and childcare subsidies. Palestinian leadership should provide funding for NGOs working to protect women in the territories. Finally, laws should be changed to reflect same punishments for both men and women for the same crime, to guarantee just punishment for perpetrators of honor killings, to reflect the equal standing of men and women in a court of law, to reflect the complete range of sexual misconduct women are subjected to, to equalize access to divorce, and to ensure women do not face restrictions on employment that men do not face.