



**Implementation of the Convention on the
Elimination of All Forms of Discrimination
against Women under the Palestinian
Authority and Hamas**



Alternative report prepared for the United Nations Committee
on the Elimination of Discrimination Against Women



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Elimination of Discrimination Against Women

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The Jerusalem Institute of Justice (JIJ) does not present this report as a denial of human rights violations charged against Israel, since materials are readily available on that subject. JIJ itself has litigated human rights cases within Israel for more than a decade. This report covers largely unreported, often censored, violations by the Palestinian governing authorities against Palestinians so that their voices may be heard and facts might replace distorted misunderstandings of the regional situation.

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I. Introduction



A. Overview

i. Issue Under Investigation

According to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW):

The term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.¹

The following report examines the degree to which the Palestinian governing authorities in the West Bank and Gaza adhere to CEDAW. Findings indicate their acute failure to protect women’s rights within both legal codes and cultural practices. Even in cases where legal codes guarantee certain women’s rights, laws are either not enforced or inconsistently enforced and very few categories of rights receive complete protection. For example, in 2011 the Fatah-controlled Palestinian Authority (PA) published an extensive document entitled “National Strategy to Combat Violence Against Women 2011-2019.”² This document is an impressive acknowledgement of women’s rights violations, but despite the authorities’ ostensible intentions to counteract violence against women, the problems outlined remain rampant.

ii. Government Obligations

In 2009, PA President Mahmoud Abbas symbolically signed onto CEDAW by issuing Presidential Decree No. 19 Concerning the Ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).³ This act was formalized on 2 April 2014 when, according to UN records, the State of Palestine

¹ “Convention on the Elimination of All Forms of Discrimination Against Women,” *UN Women*. Accessed 11 June 2015. <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

² *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>.

³ 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=jiws>.

officially signed onto CEDAW,⁴ having been granted non-member observer status in 2012. Hamas, as a non-state actor that currently governs Gaza and claims to lead the PA, is also obligated to respect international human rights law.⁵ Both the Palestinian Authority and Hamas are required to adhere to CEDAW and are currently in violation thereof.

ii. Relevant Legal Codes

The many legal codes in the West Bank and Gaza are both inconsistent and inconsistently applied across cases.⁶ It should be noted that the Jordanian Penal Code of 1960 is applied in the West Bank and the Egyptian Penal Code of 1936, also referred to as the British Penal Code, is applied in Gaza. In addition each Christian denomination has its own set of personal status laws,⁷ but given that less than 1% of Gaza residents and only between 1-2.5% of West Bank residents are Christian,⁸ these personal status laws are not explored in this document, although we do include reports by Christians about daily life and culture in the West Bank and Gaza. The Palestinian Basic Law and 2003 Amended Basic Law function as a temporary constitution for the Palestinian Authority.⁹ Article 9 of the Palestinian Basic Law states that: “All Palestinians are equal under the law and judiciary, without discrimination on the basis of race, sex, color, religion, political views, or disability”¹⁰; a striking example of a strong legal guarantee of women’s rights that is not fully upheld. There are also a number of Gaza and West Bank legal codes on specific topics, such as employment and finances, which will be cited later in this report.

⁴ “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.

⁵ 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>.

⁶ This report focuses on a subset of legal codes from Gaza and the West Bank. For materials from laws not cited, see Abeer Al-Mashni et al. (eds.), *Palestinian Women and Security: A Legal Collection*, Geneva Centre for the Democratic Control of Armed Forces (DCAF), 2012. Available at <http://www.dcaf.ch/Publications/Palestinian-Women-and-Security-A-Legal-Collection>.

⁷ Al-Mashni, et al., *Palestinian Women and Security*, p.44-83

⁸ ““Gaza Strip,” and “West Bank,”” *Central Intelligence Agency*, 7 July, 2015. <https://www.cia.gov/library/publications/the-world-factbook/geos/gz.html>; <https://www.cia.gov/library/publications/the-world-factbook/geos/we.html>.

⁹ Chaban, “Promoting Gender-Sensitive Justice,” p. 156.

¹⁰ Palestinian Basic Law 2003, Article 9, Available at <http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>



B. Methodology

The information presented in this report derives from reputable news outlets and non-governmental organizations (NGOs) from across the political spectrum. Wherever possible, information and statistics were obtained directly from materials produced by the Palestinian Authority and other government bodies that affiliate themselves with the Palestinian people. Furthermore, English-language interviews were conducted with individuals with experience living in Gaza and/or the West Bank, many of whom work professionally on women's issues in those areas. To protect the safety and privacy of such individuals, names and identifying information have been withheld and records of the interviews maintained internally by the Jerusalem Institute of Justice. It should be noted that JIJ struggled to find Palestinian women, particularly Muslims, who felt comfortable being interviewed, a fact which itself speaks for the experiences of women in Palestinian society. Therefore, this report relied at times on male interviewees to provide testimony about the role of women in Palestinian society.

This report refers to the specific articles of CEDAW violated by Hamas and the Palestinian Authority; this does not, however, imply that they act in accordance with those articles of CEDAW not mentioned. The report only addresses topics for which a sufficient quantity of reliable information was determined to be available. It is recommended that readers read CEDAW in its entirety to more fully understand its demands.¹¹

II. Report on the Implementation of the Convention



A. Education

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education. – CEDAW, Article 10

i. Access to Schooling

The content of education for and about women is of greater concern in the West Bank and Gaza than is female access to education. In both the West Bank and Gaza, the ratio of girls to boys is approximately the same at all levels of education for which data is available. In the academic year 2011-2012, the ratio of girls to boys in primary

¹¹ To read CEDAW in its entirety, see <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>.

education was 0.99 in the West Bank and 0.97 in Gaza and in secondary education 1.23 in the West Bank and 1.15 in Gaza.¹² No data regarding tertiary education has been available since 2001.¹³ R., a representative of an NGO in the West Bank, agreed that, in her experience, girls successfully access education: “All children go to school because the law says [to] go, and there is free education for everyone.”¹⁴ According to data from the academic year 2009-2010, dropout rates for females in the West Bank and Gaza were relatively low and were comparable to those of males; the highest dropout rate for any data category was 2.5% for females in secondary education in the West Bank.¹⁵

There are, however, two categories of women who may face unjust barriers in their attempts to access education: young married women and rural women. B., a representative of an NGO based in the West Bank but involved in communities in both the West Bank and Gaza, explained that child marriage and pregnancy interfere dramatically with women’s education. Often, B. stated, schools will not permit married or pregnant girls to attend, and even when schools do permit it, husbands may forbid their wives from attending.¹⁶

Article 14 of CEDAW asserts that the state “must take into account the particular problems faced by rural women.” Nevertheless, W., a representative of a hospital in the West Bank, said that women in rural areas of the West Bank are less likely to attend school than their urban counterparts.¹⁷ V., a Palestinian Christian woman from Jerusalem, believes that although rural women faced difficulty accessing education in the past, the situation is much improved today, and she cited Bethlehem University as an example. “Seventy percent of our student body at Bethlehem University are women. Where do they come from? Not the city ... I would say 90% of those women are villagers. They come from the village.”¹⁸

¹² “Ratios of Girls to Boys in Basic Education by Region,” Palestinian Central Bureau of Statistics. Accessed 7 July 2015. http://www.pcbs.gov.ps/NSMS/Selection.aspx?px_type=PX&px_language=en&px_tableid=MS/180101.px.

¹³ “Ratios of Girls to Boys in Tertiary Education by Region,” Palestinian Central Bureau of Statistics. Accessed 7 July 2015. http://www.pcbs.gov.ps/NSMS/Selection.aspx?px_type=PX&px_language=en&px_tableid=MS/180301.px.

¹⁴ Interview with R., West Bank NGO representative, Ramallah, 28 April 2015.

¹⁵ Faten Abu-Qara, *Palestinian Children –Issues and Statistics*. Report. no. 15, Palestinian Central Bureau of Statistics, April 2012, p.43. http://www.pcbs.gov.ps/Portals/_PCBS/Downloads/book1863.pdf.

¹⁶ Interview with B., West Bank NGO representative, Ramallah, 28 April 2015.

¹⁷ Interview with W., West Bank hospital representative, Bethlehem, 19 May 2015.

¹⁸ Interview with V., Palestinian woman from Jerusalem, 20 July 2015.

ii. Gender Segregation¹⁹

According to Educational Law No. 1/2013, in Gaza all schools, including private and UN schools, must be gender segregated, and no men may teach at girls' schools. Walid Mezher, legal advisor to the Ministry of Education, stated that this law essentially codifies long-held tradition.²⁰ It is difficult to know if the education provided to girls and boys is of the same content and quality as outside access to educational materials from Gaza and the West Bank is limited. Nevertheless, it is of concern that male teachers may not teach at girls' schools because female students thus lack access to the full spectrum of instructors from whom male students may learn. The Associated Press reported Zeinab al-Ghnaimi, head of Gaza's only legal aid center, saying that: "The laws they are issuing affirm discrimination against women ... It's a clear strengthening of the culture of separation between the genders, and this is unacceptable."²¹

In the West Bank too most public schools separate students according to gender, but such separation is not legally mandated, allowing people to make their own decisions regarding gender segregation in schools.²² R. explained that women may prefer single-sex schools, finding them more comfortable environments for learning or simply wishing to avoid being separated from friends.²³

P., a young Christian man raised in Gaza, believes that the system of single-sex schooling has the adverse effect of sexualizing women and contributing to gender-based violence and discrimination: "Because of the separation between the boys and girls so young, ... they [boys] see the girl as just a sexual machine, and this is how the Quran sees it too...The girl is thought about in just a sexual way. Even the girls are taught to think this way." He recognizes that in the long term, coeducational schooling can go a long way toward de-objectifying women, but in the short term, it may induce fear in girls. He also added that if single-sex schools are deemed the preferred mode of education, it is critical to verify that girls and boys are receiving education of comparable quality.²⁴

¹⁹ Hamas and the Palestinian Authority seem to conflate biological sex and gender; it is assumed for the purposes of this report that when schooling is segregated, distinctions are made according to biological sex. Although laws in the West Bank and Gaza tend to refer to discrimination based on gender rather than sex, legal and cultural discrimination against members of the LGBTQ+ communities in those areas is rampant, suggesting that the word "gender" in the legal code really means "biological sex." Further discussion of this topic is beyond the scope of this report, but it is noteworthy that laws ostensibly protecting women from gender-based discrimination may, if at all, only protect heterosexual, cisgender women.

²⁰ Hazem Balousha, "New Gaza Education Law Imposes Gender Segregation," *Al-Monitor*, 4 April 2013. <http://www.al-monitor.com/pulse/iw/originals/2013/04/gaza-education-law-gender-segregation.html#>.

²¹ Ibrahim Barzak, "Women's Group Slams Gaza Law on Gender Segregation," *The Times of Israel*, 2 April, 2013. <http://www.timesofisrael.com/womens-group-slams-gaza-law-on-gender-segregation/>.

²² Ibid.

²³ Interview with R.

²⁴ Interview with P., man raised in Gaza, West Bank, 17 May 2015.

iii. Educational Content

P. stated that boys' schools in the West Bank and Gaza, and throughout the Muslim world, teach that a woman must stay at home, wear a hijab, and obey her husband.²⁵

P., who was educated in a UN school in Gaza, said that he had been exposed to a particular Muslim teaching that Palestinian martyrs will be rewarded with 72 virgin women in Paradise, a lesson that further sexualizes and objectifies women.²⁶ It is thus evident that the portrayal of women in schools and in educational materials requires significant revision.

According to V., however, students today may not be subject to the same harmful messaging: "They keep changing, developing the textbooks, and the textbooks used to be, the boy, let's say, on his way to school. Now it's also the girl that exists in the books; not only the boy, luckily."²⁷

iv. Sex Education

CEDAW further stipulates that education must include "advice on family planning." Yet, focus groups conducted with young people in the West Bank suggest that sex education is severely lacking both in schools and at home.²⁸ The fact that sex is a taboo topic in many spheres of Palestinian culture may explain the authorities' resistance to implementing or even discussing the possibility of sex education. NGOs looking to offer sex education explained the need to disguise their intentions and advertise their programming only in vague terms in order to receive official approval and gain access to schools.²⁹



B. Employment

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment ... [and] on the grounds of marriage or maternity and to ensure their effective right to work. – CEDAW, Article 11

²⁵ Second interview with P., West Bank 12 July 2015.

²⁶ 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>.

²⁷ Interview with V.

²⁸ 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.

²⁹ Interview with B.

i. Restrictions on Workforce Involvement

Women face both de facto and de jure restrictions on the fields in which they may work. For example, Minister of Labour Resolution No. 2 Prohibiting the Employment of Women in Hazardous or Arduous Work of 2004 bars women from working in a number of fields, including mining, the production of alcohol, and forestry unless in administrative or clerical positions. This law strips women of opportunities for gainful employment which are available to men and limits their ability to make choices about how they wish to spend their time and secure their finances. It also reinforces decades-old stereotypes about a woman's role in the workplace.

In addition, the Council of Ministers Resolution No. 14 Regarding Women's Night Working Hours of 2003 lists the jobs available to women between 8pm-6am. Although the list is quite extensive, the setting of any such limitations constitutes gender-based discrimination. Furthermore, if the law is intended to protect women during the supposedly dangerous night hours, it may instead have the opposite effect and reinforce the danger by keeping women fearful and normalizing violent acts committed by men. Article 101 of Palestinian Labour Law No. 7 of 2000 places similar restrictions on women, giving the minister of labor the right to define "dangerous or strenuous work" from which women are barred and prohibiting female labor at night except in jobs deemed acceptable by the Council of Ministers.

Women are generally less involved in the workforce than men due to both legal restrictions and cultural standards for female behavior. Unemployment in Gaza and the West Bank disproportionately affects women: in 2013, 25.9% of West Bank women were unemployed as compared to 16.8% of men and 53.1% of Gazan women were unemployed as compared to 27.8% of men.³⁰ The situation is even bleaker when examining the share of women in wage employment specifically in the non-agricultural sector: in 2011, women made up 18.7% of the work force in the West Bank and 14.6% in Gaza for all localities (i.e., urban, rural, etc.).³¹ The composition of the Palestinian judiciary likewise reflects the inequality between men and women in the workplace: as of 2010, only 12% of judges and 11% of prosecutors-general were female.³²

W. explained that even if a woman is able to find employment, there are many social implications to consider. Men typically consider women unsuitable for certain, or all, professional positions: "According to the culture, if you put a woman managing a department, then she will suffer from the man because according to them the woman

³⁰ See website of Palestinian Central Bureau of Statistics.

http://www.pcbs.gov.ps/site/lang__en/881/default.aspx#Labour. Accessed 6 July 2015.

³¹ "See "National Statistical Monitoring System," *Palestinian Central Bureau of Statistics* . Accessed 6 July, 2015. http://www.pcbs.gov.ps/NSMS/Selection.aspx?px_type=PX&px_language=en&px_tableid=MS/180401.px.

³² *Checkpoints and Barriers: Searching for Livelihoods in the West Bank and Gaza Gender Dimensions of Economic Collapse*, The World Bank, February 2010, p.77.

<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/GenderStudy-EnglishFeb2010.pdf>.

is only able to deliver children.”³³ J., a West Bank father, echoed this sentiment, explaining that traditional culture dictates that a “woman must stay in the house, must stay with the children.”³⁴ In such a culture women may choose not to seek employment outside the home. An important distinction must be made here. When women are prevented by employers, family, or the law from seeking employment or are not free to work outside the home, they face discrimination; this is not the case when women choose of their own free will not to enter the workforce.³⁵ For many women in the West Bank and Gaza, their reality is discrimination.

V. believes that cultural norms about female employment are shifting: “Today the young Palestinian men, if you tell them, ‘This is a nice girl. It’s nice if you meet her,’ [they ask], ‘Does she have a job?’ because women have to be active participants in the economic life of society today.”³⁶

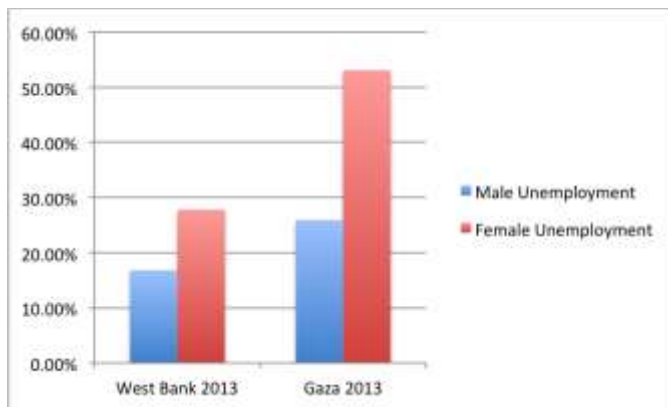


Figure 1

ii. Discrimination in the Workplace

While Palestinian Labour Law No. 7 of 2000 acknowledges the right of women to work and prohibits gender-based discrimination in the workplace, Article 3 specifies that this principle “does not apply to domestic workers.” Domestic workers are, of course, disproportionately female, and therefore, despite its ostensible guarantee of equal treatment of men and women in the workplace, it is evident that this law is discriminatory.³⁷

³³ Interview with W.

³⁴ Interview with J., a West Bank father, June 2015.

³⁵ In economic terms, individuals who are not actively seeking a job are not counted in the unemployment rate.

³⁶ Interview with V.

³⁷ Maha Abu Dayyeh, et al., eds., *Palestinian Women and Security: Promoting the Rights of Palestinian Women and Girls through Legislation*. Working paper. Geneva Centre for the Democratic Control of Armed Forces (DCAF), Palestinian Women’s Centre for Legal Aid and Counselling (WCLAC), May 2012, p.7.<http://www.dcaf.ch/Publications/Working-Paper-Palestinian-Women-and-Security-Promoting-the-Rights-of-Palestinian-Women-and-Girls-through-Legislation>.

In fact, according to the PA's own statistics, in 2009 32.5% of working women in Gaza suffered "exploitation, discrimination, very long working hours and poor working conditions," while 68% lacked full "discretion in using their wages." The PA also recognized the existence of verbal abuse and sexual harassment of women in the workplace, as well as discrimination against pregnant employees.³⁸

V. testified that a Palestinian woman cannot expect to receive the same salary as a man for performing the same job.³⁹

iii. Working Mothers

There are a number of laws granting protection to pregnant women and nursing mothers in the workplace.

Article 88 of Civil Service Law No. 4 of 1998 guarantees maternity leave with full pay for a period of 10 successive weeks before and after birth. This law also permits breastfeeding women to leave work an hour early each day for the year following the delivery of her child and to take unpaid maternity leave for one year.

Council of Ministers Resolution No. 45 Regarding the Executive Regulations of the Civil Service Law No. 4 of 1998, Amended by Law No. 4 of 2005 also guarantees one year of unpaid maternity leave.

Article 101 of Palestinian Labour Law No. 7 of 2000 prohibits any additional working hours during pregnancy and for six months following childbirth. Article 103 states that: "the working woman who has worked for a period of one hundred and eighty (180) days prior to each delivery shall have the right to a paid maternity leave for a period of ten (10) weeks, including at least six (6) weeks after the delivery," and Article 104 entitles lactating mothers to at least one hour a day of breastfeeding during work for one year after the delivery of her child.

The Law of Service in the Palestinian Security Forces No. 8 of 2005 Articles 82 and 163 grant female officers, non-commissioned officers, and personnel maternity leave with full pay for 10 weeks.

According to V., Palestinian women generally know about their rights regarding maternity leave.⁴⁰ Some Palestinian women, however, may be pressured into taking maternity leave that they do not really want. Palestinian journalist S. claimed that: "You will rarely find a pregnant woman working, especially in Gaza, because people will look at it and say 'What are you doing here? ... You should be at home.'⁴¹ V. added that women generally have access to childcare which allows them to enter the workforce

³⁸ "National Strategy to Combat Violence Against Women 2011-2019," p.16.

³⁹ Interview with V.

⁴⁰ Ibid.

⁴¹ Interview with S., Palestinian journalist, Ramallah, 15 July 2015.

even if they have young children. In the West Bank, she claimed, childcare providers must train and receive a license, while in Gaza the system is more informal with mothers relying on a network of relatives to look after their children.⁴²



C. Honor Killings

Everyone has the right to life, liberty and security of person. – The Universal Declaration of Human Rights, Article 3

i. Occurrences and Attitudes

Honor crimes are alarmingly common in the West Bank and Gaza and their punishment disturbingly insufficient. There were approximately 27 honor killings in the West Bank and Gaza in 2013.⁴³ West Bank data from 2005-2006 indicated poisoning, stabbing, and strangling as some of the methods used to carry out these killings. Honor killings are usually motivated by suspicion or knowledge of extramarital affairs or pregnancies and, in some cases, by the victim having previously run away from home, sometimes with the intention to marry against her family's will.⁴⁴ Numerous individuals with experience of living in the West Bank and/or Gaza interviewed by JIJ representatives corroborated reports of honor killings reported by news media. P. stated that certain areas suffer from particularly high rates of honor killings and expressed a belief that access to quality education helps to curb the number of such incidents:

In Hebron last year, [honor killings] happened like 10 times. In Gaza you also hear about this. In Ramallah not so much ... First of all the security is better there and the people have a better education, and they [have spent time] in Europe and America, but around the villages I hear things. Last week [in May 2015], I heard of a father who raped his daughter in Betzariq village.⁴⁵

M., a Christian Arab man from the Galilee region, agreed that honor killings were relatively common among Muslim families and spoke of a practice whereby a man

⁴² "Interview with V.

⁴³ 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>.

⁴⁴ 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.

⁴⁵ Interview with P.

forcibly restrains his wife, ties a rope around her hands, and then permits her to die of starvation or dehydration.⁴⁶

G., a Palestinian man living in the West Bank, reported that Palestinian officials often perpetuate the pattern of honor killings rather than combatting the problem. He claimed that a Palestinian police officer has been known to threaten a girl, telling her that if she doesn't have intercourse with him, he will tell her family that she is sexually active and thus endanger her life. G. knows personally of a case in which a Palestinian couple denied being engaged in a sexual relationship, fearing that police officers would use the information to their advantage.⁴⁷

P., who currently lives in the West Bank, added that the authorities often do not make an earnest effort to find the perpetrator of an honor crime, and even if a perpetrator is caught, he receives a penalty of no more than a few months or a few years in prison.⁴⁸

The international community, West Bank and Gaza government officials, and residents of Gaza have all publicly acknowledged the occurrence of honor killings in the West Bank and Gaza. Following an incident in May 2014, UN Women in Palestine issued a statement regarding the "worrying increase in the rate of femicide, from 13 in 2012 to 28 in 2013, [which] demonstrates a widespread sense of impunity in killing women."⁴⁹ Director of Coordination in the Ministry of Women's Affairs for the Palestinian Authority, Nabila Rizq, has also publicly addressed the rise in honor killings from 2012 to 2013.⁵⁰ In response to honor killings in their community, on March 3, 2014 more than 100 people assembled in Gaza outside the attorney general's office to demand that the government confront gender-based violence.⁵¹

According to R., one of the West Bank NGO representatives, although honor killings continue as in decades past, there are slight advances in community attitudes toward these incidents: "It used to be that no one would talk about honor killings and say the woman deserved it, and now people are acknowledging that this is going on and speaking out against it."⁵²

⁴⁶ Interview with M., Christian Arab man from Galilee, June 2015.

⁴⁷ Interview with G., a man from the West Bank, 26 May 2015.

⁴⁸ Second Interview with P.

⁴⁹ "UN Decries Rising Violence against Palestinian Women," *Ma'an News*, 16 May, 2014. <https://www.maannews.com/Content.aspx?id=697833>.

⁵⁰ Itamar Marcus and Nan Jacques Zilberdik, "100% Rise in Palestinian 'family honor' killings," *Palwatch*, 25 February 2014. http://www.palwatch.org/main.aspx?fi=157&doc_id=10767

⁵¹ Odgaard, "Upsurge in Palestinian 'honour killings.'"

⁵² Interview with R.

ii. Legal Repercussions

Legal repercussions for honor killings have tended to be significantly less harsh than for other categories of murder. Not until May 2011 did President Mahmoud Abbas suspend Article 340 of the Jordanian Penal Code of 1960, applicable in the West Bank, which provides a mitigating excuse if a man, on finding his wife in bed with another man, murders either or both of them.⁵³ Prior to 2012, this law remained on the books, though it was not typically applied in courts. Article 18 of the Egyptian Penal Code of 1936, substantially similar in content to Article 340, was likewise suspended.⁵⁴

Additionally, until its amendment in May 2014,⁵⁵ Article 98 of the Jordanian Penal Code of 1960 stipulated that: “Mitigating circumstances shall apply in cases in which the crime was carried out in a state of extreme anger, as a result of a serious and unjust act.” In an interview with *Ma’an News* Dr. Sabir al-Aloul, director of Al-Quds University’s Institute of Forensic Medicine, explained that mitigating circumstances typically result in a significantly reduced sentence — often three years or less⁵⁶ — and the prospect of a reduced sentence can incentivize murderers of female victims to claim they were motivated by a desire to defend family honor when, in fact, the murder was unrelated to issues of honor.⁵⁷

P. reported that while Palestinians have heard about the change in law pertaining to “mitigating circumstances,” they have not seen much change in the rate or brutality of honor crimes, because “the problem is not just in the law. It’s in the culture ... even if there is no exception in the law, they will say [a woman] deserved [to die] because this is what the Quran teaches.”⁵⁸

Neither the West Bank nor Gaza have an encouraging track record regarding the just punishment of murderers of women who claim an “honor defense,” though recent legislative reforms, if applied appropriately, may lead to more just punishments. Nevertheless, deeply-rooted cultural acceptance of the legitimacy of an “honor defense” and its perpetuation by law enforcement officials remain an immense hurdle for women’s rights.

⁵³ Soraya Al-Ghussein 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.

⁵⁴ Zeina Jallad, *Palestinian Women and Security: A Legal Analysis*, Geneva Centre for the Democratic Control of Armed Forces (DCAF), 2012, p.5. <http://www.dcaf.ch/Publications/Palestinian-Women-and-Security-A-Legal-Analysis>.

⁵⁵ “Abbas Amends Law on Honor Killings.” *Palwatch*, 20 May 2014. http://palwatch.org/main.aspx?fi=587&doc_id=11688.

⁵⁶ Asmaa Al-Ghoul, “Palestinian Mother Speaks Out About Daughter’s Honor Killing,” *Al Monitor*, 20 March 2013. <http://www.al-monitor.com/pulse/originals/2013/03/honor-killing-gaza.html>.

⁵⁷ “Report: Killers Use Honor as Excuse for Leniency in Femicide Cases,” *Ma’an News*, 6 September 2014. <http://www.maannews.com/Content.aspx?id=725696>.

⁵⁸ Second interview with P.



D. Human Trafficking and Prostitution

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women. – CEDAW, Article 6

i. Legal Definitions and Penalties

There are a vast number of laws in effect against the exploitation of women in the contexts of human trafficking and prostitution in both the West Bank and Gaza; many more laws, in fact, than for most other topics addressed by this report. Nevertheless, human trafficking and prostitution remain a serious problem with the government tending to whitewash concerns.

Article 310 of the Jordanian Penal Code of 1960 mandates a one to three year prison sentence and a fine of between five and fifty dinars on individuals who lead or attempt to lead a woman under the age of 20 to have illegal sexual intercourse “provided that such a woman is not a prostitute, and is not known for her immoral character.”⁵⁹ The language of Article 161 of the Egyptian Penal Code of 1936, applied in Gaza, is nearly identical, apart from failing to stipulate a penalty for the categories of violations it outlines and instead simply defining them as a misdemeanor.⁶⁰

Article 311 of the Jordanian Penal Code of 1960 mandates a one to three year prison sentence for coercion, while Article 162 of the Egyptian Penal Code of 1936 similarly refers to the illegality of coercion. The exception for women known for their “immoral character” is a glaring gap in the protection this law provides to women. Such a definition is entirely subjective and open to exploitation by an individual accused of leading a young woman into prostitution as a way of keeping himself out of prison. Likewise, the exception made for prostitutes also leaves significant leeway for a

⁵⁹ 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.”

⁶⁰ Al-Mashni et al., *Palestinian Women and Security*, pp.25-26; Article 161 of the Egyptian Penal Code of 1936 reads in full: “Any person who: a. Procures or attempts to procure any female under twenty (20) years of age, who is not a common prostitute or is known to have an immoral character, to have unlawful sexual intercourse either within or outside of Palestine, with any other person; or b. Procures or attempts to procure any female to become a common prostitute either within or outside of Palestine; c. Procures or attempts to procure any female to leave Palestine, with the intent that she may become an inhabitant of or frequent a brothel elsewhere, or d. Procures or attempts to procure any person under sixteen (16) years of age to commit sodomy, or e. Procures or attempts to procure any female to leave her usual place of residence in Palestine, such place not being a brothel, with the intent that she may, for the purpose of prostitution, become an inhabitant of or frequent a brothel within or outside of Palestine, is guilty of a misdemeanour.”

defendant to claim innocence on the grounds that his victim was a prostitute (even if she was initially coerced into sex work).

Article 312 of the Jordanian Penal Code of 1960 states that “managing a brothel [or] knowingly renting out a space to be used as a brothel” can result in a prison sentence no longer than six months and/or a fine no higher than 100 dinars. Article 163 of the Egyptian Penal Code of 1936 defines the same actions as a misdemeanor, and first-time violators are subject to a three-month prison sentence and/or a one-hundred-pound fine. The fact that the fines are still defined in terms of Jordanian and British currency reveals the anachronism of the laws.⁶¹

Articles 317 and 318 of the Jordanian Penal Code of 1960 and Article 170 of the Egyptian Penal Code of 1936 make it illegal to hold a woman in a brothel against her will.

Article 315 of the Jordanian Penal Code of 1960 mandates a prison sentence of between six months and two years on a man who makes his living off the earnings of female prostitutes; Article 166 of the Egyptian Penal Code of 1936 defines the same activity as a misdemeanor.

Article 316 of the Jordanian Penal Code of 1960 mandates a prison sentence of no longer than one year or a fine no greater than fifty dinars on “a woman who helps or obliges a person to engage in prostitution”; Article 173 of the Egyptian Penal Code of 1936 defines such actions as a misdemeanor. A number of other articles and sub-sections of articles previously cited from both penal codes also relate, albeit to a lesser extent, to the issues of human trafficking and prostitution of women.

ii. Facts on the Ground

The extensive corpus of laws summarized in the previous section might suggest a zero-tolerance attitude toward exploitation in the context of human trafficking and prostitution in the West Bank and Gaza; reality, however, paints a very different picture. B., an NGO representative, stated that: “The government wants to say that no brothels or prostitution exist, even though they know a good number are known.”⁶²

A West Bank-based NGO called SAWA — All the Women Together Today and Tomorrow — published a report in 2008 entitled “Trafficking and Forced Prostitution of Palestinian Women and Girls: Forms of Modern Day Slavery” with the support of the United Nations Development Fund for Women. SAWA operates call centers for women and children in the West Bank and Gaza who have been subjected to violence. The majority of news articles published in recent years on the subject of prostitution in the West Bank and Gaza refer to this 2008 report. The report explained that while it is

⁶¹ Both shekels and dinars are used in the West Bank today, but in Gaza the currency is exclusively shekels.

⁶² Interview with B.

difficult to obtain reliable statistical data regarding human trafficking and forced prostitution in the West Bank and Gaza due to the sensitive nature of the topic and particular cultural taboos, female prostitutes are working in “escort services, brothels in hotels, rented houses, private apartments and even house cleaning companies.” There is evidence to suggest that women are being trafficked from the West Bank into Israel and East Jerusalem, from the Gaza strip into Israel, within the West Bank, and from Israel into the West Bank. In many of these situations, trafficking may be under the jurisdiction of both Israeli and Palestinian government authorities.⁶³

Fieldwork conducted for the SAWA report indicated that the typical traffickers are Palestinian women between the ages of 40 and 50 with limited educational background, while the typical subjects of trafficking are female students at Palestinian colleges or universities, though many are also younger. A West Bank taxi driver reported driving girls to known houses of prostitution, suggesting that such operations are not particularly well-kept secrets but equally are not necessarily investigated by authorities.⁶⁴

Economic insecurity or other unfortunate circumstances can leave girls with little practical choice but to go into prostitution, but SAWA reported that: “the Palestinian police has traditionally held that the majority of women engaged in prostitution do it by their own ‘will.’” Moreover, Palestinian women who return home to the West Bank or Gaza after being trafficked into Gaza can be subject to harsh social stigma, rendering them outsiders in their own communities.⁶⁵ The previous section of this report on the topic of honor crimes illustrates the potential consequences for women accused of sexual impropriety.

Despite such reports, the issue of prostitution is not necessarily recognized or discussed by Palestinians uninvolved in the sex industry or by related NGOs. S., who works as a journalist, even claimed that: “Forced marriages and sex slavery — you do not have that today. Not even in Gaza.”⁶⁶ Denial possibly stems from a cultural attitude described by V: “Nobody talks about [prostitution]. Definitely it’s a taboo, but it is a part of an underground thing.”⁶⁷

⁶³ *Trafficking and Forced Prostitution of Palestinian Women and Girls: Forms of Modern Day Slavery*, SAWA—All the Women Together Today and Tomorrow, 2008, p.12. Accessed 7 July 2015. <http://www.refworld.org/pdfid/4bcc13862.pdf>.

⁶⁴ Ibid., pp. 11-14.

⁶⁵ Ibid., p. 15.

⁶⁶ Interview with S.

⁶⁷ Interview with V.



E. Economic Access

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life. – CEDAW, Article 13

The Palestinian Authority recognized the rampant economic discrimination against women, acknowledging “economic violence in terms of salary, working hours, health conditions in the work place, etc.”⁶⁸ in its “National Strategy to Combat Violence Against Women 2011-2019” published in 2011. Yet such issues persist today. In the report they cite a study conducted by the Women’s Center for Legal and Social Advising, the Young Christians’ Association at the Gaza Women’s Center, and the Church Aid Institution which found that: “sixty-two percent of families refused to grant women their right to inheritance when they demanded it, while 25% repeatedly postponed [the issue].”⁶⁹ It was also found that from October 2011 to January 2013, close to 100 women from the West Bank and Gaza called a hotline for women and children run by SAWA to talk about their experiences of economic exploitation.⁷⁰

C., a representative of a West Bank NGO, said that the local culture accepts such violations of women’s rights and that Palestinian women struggle with brothers who regularly appropriate their sisters’ share of inheritance. “These are just the social norms,” she said.⁷¹ According to V., a Christian or Muslim woman receives one portion of property inheritance for every two portions received by her brother. She reported that a woman can go to court to claim her inheritance right if it is not respected, but she will still not receive an equal inheritance. Moreover, if property has already been officially registered in the name of her brother, she will not win a legal dispute.⁷² Nevertheless, she believes there are signs of improvement: “In the past, the girl would get the jewels of the mother, and land [and] property [would] go to the boy. Now no woman will accept this.”

In the case of pensions, there are laws like the Law of Public Retirement No. 7 of 2005 and the Law of Insurance and Pension of the Palestinian Security Forces No. 16 of 2004 that guarantee some benefit to widows, unmarried daughters, and sisters from a man’s pension, but it is not necessarily expected that such guarantees will be respected.

⁶⁸ “National Strategy to Combat Violence Against Women 2011-2019,” p.16.

⁶⁹ Ibid.

⁷⁰ 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.

⁷¹ Interview with C., West Bank NGO representative,” Bethlehem, 28 April 2015.

⁷² Interview with V.



F. Political Rights

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country. – CEDAW, Article 7

States Parties shall accord to women equality with men before the law.” — CEDAW, Article 15

i. Voting, Elections, and Leadership

Both legislation and culture prevent women from fully accessing political and public life, although women are certainly involved in politics, particularly in the West Bank. A number of relatively recent laws have established minimum quotas for female representation in various government bodies in the West Bank, but equal male and female representation has still not been attained. The PA’s Elections Law No. 13 of 1995 acknowledges women’s right to political participation and clarified that the terms “elector” and “candidate” refer to both women and men. Additionally, Article 17 of Elections of Local Councils Law No.10 of 2005 states that women must have at least 20% representation in the “local body” and that on each list of electoral candidates, there must be at least one woman among the first three names, among the next four names, and among the remaining names. Law No. 12 of 2005 Amending Some Provisions of the Law on Elections of Local Councils (No. 10) of 2005 stipulates that a council comprising of up to 13 members must include at least two women and larger councils must include at least one woman for every five elected members.

Reports on the efficacy of these laws are varied. According to the Palestinian Central Bureau of Statistics (PCBS), in 2011 only 13.2% of seats in the Palestinian Legislative Council (PLC) were held by women;⁷³ an independent report put that number at 30% or more in 2012.⁷⁴ Barring a very significant increase in female representation in the span of a single year, it appears that the accuracy of the statistics must be questioned. Nevertheless, reports do agree that women have not achieved equal representation in the PLC.

According to P., there are no similar quotas for female representation in Gaza, and the quota system in the West Bank is “just in the papers [law]. You don’t see many women work in the PA.”⁷⁵ V, however, emphasized that women are participants in PA

⁷³ “Proportion of seats held by women in the Palestinian Legislative Council,” Palestinian Central Bureau of Statistics. Accessed 7 July 2015.

http://www.pcbs.gov.ps/NSMS/Selection.aspx?px_type=PX&px_language=en&px_tableid=MS/180501.px.

⁷⁴ Abu Dayyeh et al., *Palestinian Women and Security*, p. 6.

⁷⁵ Second Interview with P.

administration: “Women are ... members of parliament, they are ministers, members of the ... committee[s] of the PLO ... I’m talking especially about the West Bank.”

Other interviewees spoke about some of the stereotypes and pressures to which women are subjected in the realm of politics. E., an artist and educator from the West Bank, stated that because of women’s standing in society, it is easier to use women as political pawns. Political parties will incorporate women so long as it serves their political ends: “A woman can be very easily victimized, and she will avoid scandal. A man, they can try to malign them, but it’s not as bad as a woman. So in the extortion to get [a political] job, a woman is a weaker victim and is more flexible.”⁷⁶

R., one of the West Bank NGO representatives, gave a partial explanation as to why minimum representation laws have not yielded equality for women: “Our laws are all about Sharia. You can change the law, but it has to change in Sharia too or it won’t change anything...People will follow Sharia.”⁷⁷

There are, nevertheless, a few rays of hope for women’s political rights, mostly concentrated in the West Bank. For example, in 2010, Leila Ghannam was the first woman to be appointed a Palestinian governor,⁷⁸ and in 2012, Bethlehem elected its first female mayor, Vera Baboun.⁷⁹

ii. Activism and Political Expression

Palestinian women participate in political activism but face restrictions on how far they can go. On March 6, 2014, a group of women held a sit-in protest across from the Muqata’a, the PA’s presidential headquarters in Ramallah, demanding the approval of laws protecting women and children from violence. On the one hand, this protest represented a sort of political freedom: women were fighting publically for political reform. On the other hand, these women were driven to protest due to a dearth of rights and a desire to be treated fairly by the law.⁸⁰

According to S., the first intifada represented a turning point for Palestinian women who began to participate in demonstrations and rallies. S. said that today women can participate in protests and rallies, but “despite all this liberal phenomena, it is still a society where women should know where the red lines are. They are allowed to throw a stone here and there, to participate in certain events, but they cannot cross the red

⁷⁶ Interview with E., West Bank artist and educator, Jerusalem, 14 June 2015.

⁷⁷ Interview with R.

⁷⁸ Ali Waked, “First Female Palestinian Governor Envisions Change,” *Ynet News*, 31 January 2010. <http://www.ynetnews.com/articles/0,7340,L-3842196,00.html>.

⁷⁹ Daoud Kuttab, “Bethlehem Has New Female Mayor, Yet Same Old Problems,” *Al Monitor*, 24 December 2012. <http://www.al-monitor.com/pulse/originals/2012/al-monitor/christmas-bethlehem-palestine.html>.

⁸⁰ Marcus and Zilberdik, “100% Rise in Palestinian ‘family honor’ killings.”

line.”⁸¹ In Gaza, he said, women’s political expression is far more limited than in the West Bank. “Everything is relative. Compared to the Arab world, women do have a voice. You also see that on Palestine TV where women appear and it’s okay to appear without a hijab—in the West Bank only. In Gaza, it’s like Afghanistan.”⁸²

iii. Criminal Justice System

The criminal justice system is inconsistent in its treatment of women and normalizes the treatment of women as inferior to men. In marriage contracts, a woman’s testimony is worth half that of a man, according to Article 16 of the Jordanian Personal Status Law of 1976. Similarly, Article 183 states that in cases when the law is silent, deference should be made to the Hanafi school of Islamic law according to which: “a woman’s testimony is worth half that of a man. Two women’s testimonies are thus considered equivalent to that of a single man in shari’a courts ... while women can be lawyers and judges within the shari’a court, their testimonies are still only worth half those of men.”⁸³ M. attested to the fact that a judge will not believe a woman’s testimony if she goes to court alone. Instead, a woman must be accompanied to court by others who are willing to testify on her behalf.⁸⁴

Council of Ministers Resolution No. 366 to Improve the Protection of Women Subjected to Violence of 2005 states that police stations should make available female officers and specialized psychiatrists to deal with cases of violence against women. However, this resolution lacks an enforcement mechanism.⁸⁵

Article 13 of the Correction and Rehabilitation Centres (‘Prisons’) Law No. 6 of 1998 does not mandate that female prisoners be given the option of receiving treatment from female doctors, even in cases of sexual or domestic violence.⁸⁶

Article 27 stipulates special treatment for pregnant inmates, and there are a number of other laws that seek to ensure fair treatment for female prisoners and their offspring.⁸⁷ There is a lack of evidence indicating the extent to which such laws are followed.

⁸¹ Interview with S.

⁸² Ibid.

⁸³ Jallad, *Palestinian Women and Security*, p.14.

⁸⁴ Interview with J.

⁸⁵ Abu Dayyeh et al., *Palestinian Women and Security*, p. 6.

⁸⁶ Ibid., p. 7.

⁸⁷ For more information, refer to JIJ’s report on children’s rights in the West Bank and Gaza, *Sons of Violence: A Review of Palestinian Authority and Hamas Violations of Children’s Rights in the West Bank and Gaza*.

iv. Legal Documentation

Legal documentation is biased against women, both in the letter of the law and in the manner of implementation. For example, the right to pass on one's nationality is granted exclusively to men according to both the Jordanian (West Bank) and the Egyptian (Gaza) nationality codes.⁸⁸ Even when legal codes are amended in an effort to rectify bias, the authorities tend to hold onto traditional practice. For example, in explaining advances in women's rights, C. reported that while in the past a woman required the signature of her son or husband to obtain a passport, she can now apply independently.⁸⁹ C. is correct about the change in law, but according to UNICEF, in practice, officials often continue to request proof of permission from the woman's male guardian before issuing a passport.⁹⁰

As recently as 2013, Hamas required women to carry identification cards proving that they are the wife, fiancée, or immediate relative of any man with whom they walk in public.⁹¹ Identification cards are the source of much hardship for women. A campaign currently underway is demanding the removal of marital status from identification cards due to the stigma and discrimination faced by divorced women. Divorced women often try not to reveal their marital status when conducting business, paying bills, or renting a home, for example, for fear of mistreatment.⁹²



G. Marriage

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations. – CEDAW, Article 16

i. Choice of Spouse and Marriage Contracts

Custom and law place women in the West Bank and Gaza at risk in nearly every aspect of marriage, beginning with the choice of marriage partner. In most circumstances, women of all ages must receive the permission of a male guardian to marry, severely

⁸⁸ 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

⁸⁹ Interview with C.

⁹⁰ *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>.

⁹¹ "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.

⁹² "West Bank women look to divorce marital status from IDs", *Al-Monitor*. Accessed May 2, 2014. <http://www.al-monitor.com/pulse/originals/2015/07/palestine-women-marital-status-id-fight-remove-cedaw.html#>

restricting their autonomy. According to P., a marriage is seen as a sale of a woman by her father to her husband.⁹³ According to both Egyptian Family Rights Law, Issue No. 303 of 1954 and Article 9 of the Jordanian Personal Status Law of 1976, a woman's male guardian (*wali*) executes the marriage contract on her behalf.⁹⁴ Men, on the other hand, are free to act independently.

Both legal codes stipulate a vast array of circumstances under which a guardian's permission is required for a woman to act.⁹⁵ Article 9 of the Egyptian Family Rights Law, Issue No. 303 of 1954 states that when a woman age 17 or older reports to a judge her intention to marry, "the judge shall inform her guardian thereof. If the guardian does not object or his objection is unintelligible, he [the judge] shall permit her to marry." According to Article 7 of the same legal code, if a female under age 17, "claims that she has attained the age of majority, the judge shall be entitled to permit her to marry in case she is of such a conceivable appearance and her guardian thus permits." The guardian is thus the gateway to child marriage, an issue discussed below. Article 11 of the Jordanian Personal Status Law of 1976 discusses similar issues.

G. stated that arranged marriages are the norm within Muslim Arab families.⁹⁶ While this is the case in many cultures, arranged marriages become problematic when they cross into the realm of forced marriages. P. stated that forced marriage is a visible problem among Palestinians, particularly in rural villages,⁹⁷ despite the fact that Article 34 of the Jordanian Personal Status Law of 1976 and Article 36 of the Egyptian Family Rights Law, Issue No. 303 of 1954 ban coerced marriages.

Even when women are not forced into marriage, their choice of spouse is restricted by law. According to Article 33 of Jordanian Personal Status Law of 1976 and Article 37 of Egyptian Family Rights Law, Issue No. 303 of 1954, a Muslim woman cannot marry a non-Muslim man, whereas a Muslim man may marry a Jewish, Christian, or Muslim woman.

The process of establishing a marriage contract is also heavily discriminatory. Laws in both Gaza and the West Bank have many clauses about the payment of a dowry, normalizing the payment and the concept of a woman as property. There is, in addition, cultural pressure on a woman not to dictate any conditions of her marriage contract (e.g., the right to finish school, the right to get a divorce, refusal to stay

⁹³ Second Interview with P.

⁹⁴ Azzouni, "Palestine," p. 11.; Al-Mashni et al., *Palestinian Women and Security*, p. 59.

⁹⁵ For full copies of legal codes including explanations of all such circumstances, refer to Al-Mashni et al *Palestinian Women and Security*.

⁹⁶ Interview with G.

⁹⁷ Interview with P.

married to a man who takes another wife, etc.) for fear of deterring potential husbands.⁹⁸

Once married, restrictions on women do not ease up; even a married woman's freedom of movement is addressed by law. Both Article 37 of the Jordanian Personal Status Law of 1976 and Article 40 of Egyptian Family Rights Law, Issue No. 303 of 1954 obligate a woman to live in her husband's house. Nevertheless, V. testified to having traveled around the world on her own and claimed that in this regard, she is not the exception among Palestinian women, both Christian and Muslim.⁹⁹

ii. Child Marriage

Laws in the West Bank permit women to marry at younger ages than in Gaza. In both areas, however, families find ways to subvert the legal restrictions. The law also permits women to marry at younger ages than men. Article 5 of Egyptian Family Rights Law, Issue No. 303 of 1954 sets the legal age of eligibility for marriage for women in Gaza at 17 as compared to 18 for men. The Jordanian Personal Status Law of 1976 applicable in the West Bank is more worrying, with Article 5 setting the legal age of eligibility for marriage for women at 15 as compared to 16 for men. Laws cited in the previous sub-section indicate circumstances under which exceptions can legally be made to the minimum marital age. Moreover, according to Article 6 of the Jordanian Personal Status Law of 1976, a judge may marry a virgin woman aged 15 or older who has requested to be married "in the event the guardian has barred the marriage from occurring [as to unjustifiably prevent her from marriage]" unless the guardian who has barred the marriage is the girl's father or grandfather in which case she must wait until age 18 to appeal.

According to P., in practical terms these laws may just as well not exist, particularly given the societal preference for religious rather than civil marriage ceremonies:

[Child marriage] is normal. There is no legal age. Maybe in the government there is something, but the problem is that they do not marry in the government, they marry in the mosque and with [an] Imam, and in the book of Islam Muhammad did this with Aisha. He married her when she was six, and he slept with her when she was nine.¹⁰⁰

Rural women are most at risk of becoming child brides, according to W., a West Bank hospital representative: "In the villages it is still more common to be younger [when

⁹⁸ Azzouni, "Palestine," p. 11.

⁹⁹ Interview with V.

¹⁰⁰ Interview with P.

getting married and having kids] because the women are not going to study and the traditions are still very strong.”¹⁰¹

Al Monitor reported sociologist Fadel Abu Hein, an associate professor of psychology at Al-Aqsa University in Gaza, saying that customs, poverty, and unemployment may “prompt Palestinian families to force their daughters to marry at ... an early age.” A father may be motivated by the inability to afford his daughter’s basic needs or education or a desire to pay off debt. Hein went on to say that even if marriage at such an early age is technically illegal, “a cleric might officiate a marriage with approval of family representative and then the marriage will be officially registered with the Sharia Court when the girl comes of age.” There are reports that in Gaza, a girl’s age can be falsely reported to the courts by modifying her birth certificate or estimating her age based on parental testimony, thus permitting girls to marry below the legal age.¹⁰²

In 2013, PCBS reported that the average age of first marriage for women was 20.2 in the West Bank and 20.1 in Gaza.¹⁰³ PCBS statistics show that in 2010, of all women who got married in Gaza, the West Bank, and Palestinian territories, 21.8% were under age 18 as compared to only 0.9% of all men.¹⁰⁴ Such numbers confirm that the issue of early marriage is almost exclusive to women.

Moreover, according to Bakr Azzam, a lawyer specializing in Sharia issues, 35% of the approximately 17,000 court-registered marriages in Gaza in 2012 involved brides under the age of 17. Of approximately 2,700 court-registered divorces in Gaza in the same year, 25% involved underage wives.¹⁰⁵ Assuming no marriages ended in divorce the same year they were registered, these numbers indicate the existence of at least 6,625 underage brides in Gaza in a single year, revealing not only a worrying trend of early marriage but a significant legal issue as well.

iii. Divorce

Law in the West Bank and Gaza grants the husband priority in divorce cases. According to Articles 113 through 132 of the Jordanian Personal Status Law of 1976 (applicable in the West Bank) a Muslim woman can only request a divorce “if she is able to establish harm based on authorized grounds: impiety; incurable skin or sexual disease; mental disease; desertion for more than one year; inability to pay the *mahr*, or dowry; inability to provide financial maintenance; or inability of the wife to live with the husband.”

¹⁰¹ Interview with W.

¹⁰² 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>.

¹⁰³ “Median Age in the Palestine at First Marriage by Sex and Governorate by Region and sex.” Palestinian Central Bureau of Statistics. Accessed 7 July 2015.
<http://www.pcbs.gov.ps/NSMS/Selection.aspx?px_type=PX&px_language=en&px_tableid=MS/011201.px>.

¹⁰⁴ Abu-Qara, *Palestinian Children –Issues and Statistics*, p.24.

¹⁰⁵ Jalal, “Forced Underage Marriages Continue in Gaza.”

Articles 84 through 97 of the Egyptian Family Rights Law, Issue No. 303 of 1954 outline similar circumstances, which include the husband's insanity, absence, long-term imprisonment, or inability to consummate the marriage. In contrast, a man in either the West Bank or Gaza "can divorce his wife for any reason,"¹⁰⁶ and her consent is not necessary for the divorce to be effective.¹⁰⁷

The language of both sets of laws codifies an imbalance of power between husband and wife in the context of divorce. For example, Article 83 of the Jordanian Personal Status Law of 1976 states that a competent husband is "eligible for divorce," and Article 84 renders a woman the "subject of the divorce." Moreover, the Jordanian Personal Status Law of 1976 suggests that women can request a "separation" rather than a "divorce" or "dissolution," whereas men have more leeway to initiate divorce. It is perhaps noteworthy that there are a small number of contexts in which a West Bank woman may legally request a "dissolution" or "divorce." For example, according to Article 123 of the Jordanian Personal Status Law of 1976, a woman may request a "divorce" if her husband's prolonged absence causes her harm. Article 126 permits a woman to request a "dissolution" if her husband fails to pay her dowry. But articles such as these are the exception rather than the rule. The Egyptian Family Rights Law, Issue No. 303 of 1954 makes more provisions for a woman to request "separation by divorce"; a seemingly more permanent solution to a dysfunctional marriage than separation, at least in language.

Moreover, the Jordanian Personal Status Law of 1976 and the Egyptian Family Rights Law, Issue No. 303 of 1954 prescribe a legally-mandated waiting period (*iddah*) of three months after a woman is divorced or widowed, during which she cannot remarry. Detailed rules about this period are based on a woman's menstrual cycle. There is no comparable waiting period for a divorced man.¹⁰⁸ There is only one article, Article 134, of the Jordanian Personal Status Law of 1976, related to divorce that seems to explicitly protect women's rights: "In the event the husband divorced his wife in an abusive manner, such that he divorced her without a reasonable cause and she requested compensation from the judge, the judge shall give a judgement in her favour." P. confirmed that if a man in the West Bank or Gaza divorces his wife, he must pay her.¹⁰⁹ While this does seem to protect women's rights, Article 69 states that:

In case the wife becomes recalcitrant, she shall not receive alimony. The Nashez [recalcitrant] is the woman who leaves the matrimonial house with a legitimate justification or prevents the husband from entering her house before she

¹⁰⁶ *Occupied Palestinian Territory MENA Gender Equality Profile Status of Girls and Women in the Middle East and North Africa*, p.2.

¹⁰⁷ Jallad, *Palestinian Women and Security*, p.12.

¹⁰⁸ Al-Mashni et al., *Palestinian Women and Security*, pp.54-55, pp.75-76.

¹⁰⁹ Interview with P.

requests movement to another house. Her departure from the house shall be deemed legitimate and justified only when her husband harms or mistreats her.

Article 62 of the Egyptian Family Rights Law, Issue No. 303 of 1954 similarly withholds alimony from a *Nashez*. Again, there is no comparable law regarding “recalcitrant” men, and thus women and men are held to different behavioral standards. Additionally, a woman must be harmed or mistreated by her husband — not simply unhappy or otherwise suffering — to have a legally legitimate reason to leave the marital home, and it is the courts, not the woman herself, that determine whether she has, in fact, suffered harm or mistreatment.

V. also discussed the extent of injustice regarding divorce laws, referring to an Islamic practice which has actually been written into Article 15 of Egyptian Family Rights Law, Issue No. 303 of 1954: “For a woman to get divorced, it’s not easy. For the man, it is easier because in Islam, he tells you [that] you are divorced three times ... and already, he divorced you. Women don’t have this privilege, but they can go to court also.”¹¹⁰

There is a notable sort of divorce, *Mukhala’ah*, unique to the Jordanian Personal Status Law of 1976 according to which the wife initiates the divorce, provides monetary compensation to the husband, and returns the dowry. Other provisions may be agreed upon in the *Mukhala’ah* contract.¹¹¹ P., however, had not heard of *Mukhala’ah* and said that the only circumstance under which a woman in the West Bank or Gaza can easily request and get a divorce is if her husband has been absent for a long time, typically between seven and nine years. In any other cases, P. said, a woman who initiates a divorce will lose all her money and possibly her kids as well; the latter even more certain if she remarries.¹¹²

S. did not see divorce laws, even if biased against women, as the most significant issue at hand, however: “Law allows women [to divorce] but does society allows it? No. That is why only a few women do it.”¹¹³

iv. Parenthood

Legal codes tend to give preference to women over men in the context of child custody, but they also include clauses with unjust ramifications for women. Article 154 of the Jordanian Personal Status Law of 1976 gives custody to the mother and female relatives of a child in the case of divorce.¹¹⁴ Article 161 of this law states that, “Custodianship of the male child by a woman other than his mother shall terminate

¹¹⁰ Interview with V.

¹¹¹ Al-Mashni et al. *Palestinian Women and Security*, p.70-71; Jallad, *Palestinian Women and Security*, p. 12.

¹¹² Second Interview with P.

¹¹³ Interview with S.

¹¹⁴ While this is arguably unjust to fathers, it is not in violation of women’s rights and therefore is not in the scope of the current report.

once he reaches nine (9) years of age and of the female child once she reaches eleven (11) years of age.” This law differentiates between male and female children without justification. Alarming, Article 162 of the Jordanian Personal Status Law of 1976 permits divorced mothers or widows to have custody of their children only until the age of puberty. If a woman remarries, she loses her right to custody, possibly forcing a woman to choose between raising her children and her own material and emotional wellbeing.¹¹⁵ The law in Gaza is less detailed on the issue of child custody after divorce. Article 118 of Egyptian Family Rights Law, Issue No. 303 of 1954 states that: “The judge shall be entitled to permit a woman custodianship of a male child aged seven (7) to nine (9) years old and of a female child aged nine (9) to eleven (11) years old in the event it appears that it is in their best interest.”

After a child reaches puberty, traditional practice among Palestinian families, based on the Hanafi school of Sharia law, leaves boys to choose which parent will have custody, while girls get fathers by default.¹¹⁶ This practice is unfair both to girls who are unable to voice their personal choice and to divorced mothers who are denied the opportunity of raising their post-pubescent daughters.

According to S., however, in reality, “no man wants to raise his children [after a divorce]. It’s a woman’s job. And he wants to move on, get married. Kids always stay with the mom, and the dad never even insists.”¹¹⁷

v. Extramarital Sex

Adultery is illegal in both the West Bank and Gaza, but penalties for women are much harsher than for men. Article 282 of the Jordanian Penal Code of 1960 states that the penalty for a woman who commits adultery is a prison sentence of between six months and two years. Article 283 states that the penalty for a man who commits adultery is a prison sentence of between one month and one year and only if “he commits adultery in the marital house, or if he has publicly taken a mistress in any place,” suggesting that committing adultery in a private place outside of the marital home is acceptable for men but not for women.

Similar disparities appear in laws applicable in Gaza. According to Article 274 of British Penal Law, a woman who has committed adultery is subject to a prison sentence of up to two years. According to Article 277, a man who commits adultery is subject to a prison sentence of up to six months —and only if he committed adultery in the marital home.

¹¹⁵ Abu Dayyeh et al., *Palestinian Women and Security*, p. 8.

¹¹⁶ Ibid.

¹¹⁷ Interview with S.

These laws are archaic and among the clearest instances of men and women being treated differently by the law for exactly the same behavior.



H. Maternal Health

States Parties shall ensure to women appropriate services in connection with pregnancy. – CEDAW, Article 12

Laws about pregnant women and information about their treatment are included throughout this report beneath the headings to which they most directly pertain, and particularly in the “Rights of Working Mothers” sub-section. The current section will therefore address only additional information related to pregnancy that is not included elsewhere.

The most recent statistics available (2009-2013) indicate that 98% of women in the Palestinian Authority have at least one antenatal care visit, and 94% at least four visits. 99% of women have a skilled attendant present at birth, and 98% have an institutional delivery. Risk of maternal death in 2013 was one in 500, as compared to the world average of one in 190.¹¹⁸ It therefore appears that for the most part, women are receiving the care and services they need to ensure healthy pregnancies, though, as previously noted, they may suffer pregnancy-related discrimination.



I. Sexual and Domestic Violence and Misconduct

Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men. – UN Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19

i. Scope of the Problem

Sexual and domestic violence are undeniably large problems in the West Bank and Gaza. The Palestinian Authority reported in 2014 that 53% of Palestinian women have been exposed to violence, and 18% of unmarried young women have experienced physical, psychological, and/or sexual violence. In 45.9% of cases, the perpetrator of violence was the woman’s father and in 25.5% of cases, her brother.¹¹⁹

¹¹⁸ “State of the World’s Children Report by Country, Statistical Table,” *UNICEF*, 20 November 2014. <http://www.data.unicef.org/resources/the-state-of-the-world-s-children-report-2015-statistical-tables>.

¹¹⁹ “PA Daily Reports on Study: 53% of Palestinian Women Have Suffered from Violence,” *Palwatch*, 28 November 2014. <http://palwatch.org/main.aspx?fi=587>.

SAWA operates hotlines for women and children in the West Bank and Gaza who have experienced violence, sexual assault, abuse, and other maltreatment. SAWA data from early 2009 to mid-2011 indicated that 70% of callers ranged from the ages of 10 to 24. SAWA received 1,787 calls in this period from both males and females among which were: 256 women calling about domestic violence; 422 women calling about abuse; 22 women calling about sexual violence; 58 women calling about attempted rape; 58 women calling about rape; 21 women calling about rape within the family; and 53 women calling about sexual abuse within the family.¹²⁰

SAWA data from January 2011 to October 2013 indicated that 76% of callers were under the age of 21. 5899 females and 2,814 males called about violence and abuse, a significant increase from the previous time period, suggesting either that sexual and domestic violence has become more prevalent or that cultural attitudes toward discussing these behaviors with service providers have become more accepting. During this period calls from females attesting to abuse totaled 10,663 among which were: 1,244 calls about domestic violence; 1,936 calls about abuse; 1,085 calls about sexual violence; 225 calls about attempted rape; 331 calls about rape; 106 calls about rape within the family; and 307 calls about sexual abuse within the family, among other reasons.¹²¹

ii. Incest

Both Article 24 of the Jordanian Personal Status Law of 1976 and Article 17 of the Egyptian Family Rights Law, No. 303 of 1954 prohibit a man from marrying a blood relative and define who qualifies as a blood relative. Article 285 of the Jordanian Penal Code of 1960 mandates a prison sentence of between two and three years in cases of incest. Article 155 of the Egyptian Penal Code of 1936 sets the penalty at a five-year prison sentence for any individual who has sexual intercourse with a girl above age 16 and under 21 who “is his descendant from his wife, or is his ward, or has been entrusted to him for the purpose of education or supervision.” Despite these legal prohibitions, a strong culture of incest persists. Law in Gaza is unclear regarding a man who has intercourse with a blood relative over 21 to whom he is not married.

W. explained that while attitudes toward incest are slowly changing, there is still widespread cultural acceptance of the practice:

There is a difference from 2004 to now. The people, if you ask them, they are really more convinced that there are many negative points related to [marrying within one’s family]. But some people living in far villages around Bethlehem, if they are not coming ... to Bethlehem, if they don’t meet external people, for

¹²⁰ Ayman Abdelmajeed, *Palestinian Child Protection Helpline 121 Reality and Challenges*, SAWA—All the Women Together Today and Tomorrow, September 2011, p. 20.

¹²¹ Khsheiboun, *Helpline Provides: Support and Counseling for Women and Girls 2011-2013*, p.17 and p. 30.

them the life is going on and this is normal....They believe that the tradition[al] rights [to marry within the family] are more important than the scientific issues [i.e., health risks for the child resulting from inbreeding].

W. explained that families may think of congenital diseases resulting from inbreeding as a punishment from God.¹²²

G. agreed that incest is common within Muslim Arab families. He explained that marriages between first cousins are widespread partly because the ensuing dowry is not as high as would be expected in non-incestuous marriages. G. went on to say that closely-related couples tend not to visit doctors and receive genetic testing which leads to a prevalence of children born with birth defects.¹²³ According to V., couples are legally obligated to undergo blood testing prior to marriage in both the West Bank and Gaza. She was unsure, however, whether these tests could prevent a couple from marrying.¹²⁴ Based on these interviews, it seems that genetic testing is inconsistently conducted and that marriages between closely-related individuals are not uncommon.

G. estimated that in Bethlehem, between 50 and 80 babies are born each year as a result of rape within the family, despite such behavior being forbidden not only by civil law but also by Muslim law.¹²⁵ If young girls protest rape or assault by family members, G. stated that they will beat her for complaining. If a girl goes to the police, she will just be sent back home. If her family hears of the police visit, they will beat her. G. recalled an incident of a woman acquaintance who was raped by her brother multiple times from the age of nine. Whenever she told her brother that he was hurting her, he slapped her and told her to be quiet so as not to bother other members of the family. When the woman eventually told her mother, her mother slapped her and called her names.¹²⁶

S. described the disturbing ramifications of incest on Palestinian society with an anecdote about a 16-year-old Palestinian girl from Jerusalem who had pulled out a knife in the Old City of Jerusalem and threatened to stab IDF soldiers: "I interviewed the social worker [involved in the case], and she told me that the girl wanted to run away from home because her brothers were having sex with her. It was better to be in a Jewish prison than at home."¹²⁷

¹²² Interview with W.

¹²³ Interview with G.

¹²⁴ Interview with V.

¹²⁵ 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*.

¹²⁶ Interview with G.

¹²⁷ Interview with S.

iii. Barriers to Getting Help

The barriers to getting help when one has experienced sexual or domestic violence or any other sort of sexual abuse are manifold. Legal failures and a culture that normalizes sexual abuse instill fear about speaking out.

Article 308 of the Jordanian Penal Code of 1960 states that if a perpetrator of a sexual crime marries the victim and remains married for three to five years, then he is no longer at risk of prosecution and the abuse is no longer seen as a crime. Such a law incentivizes the perpetrator to remain in the life of the victim and thus increases the likelihood that the victim will experience prolonged exposure to her abuser. C., one of the West Bank NGO representatives, stated that “you save yourself by marrying your perpetrator,” explaining that through such a marriage, a woman can maintain her honor and ensure that her virginity went to her husband.¹²⁸ Such a law prevents women who have experienced sexual and domestic misconduct from getting the assistance they need.

Laws in both the West Bank and Gaza provide incomplete and unjust definitions of what constitutes a sexual crime. Article 292 of the Jordanian Penal Code of 1960 defines a rapist as: “any person who has forced sexual intercourse with a female, other than his wife.” The law does not recognize marital rape, rape constituting actions other than forced vaginal penetration, cases of rape not involving a single male and a single female (e.g., same-sex or group sexual interactions), or cases in which a woman is the perpetrator. The laws defines sexual violence as actions committed against women or children by men, and thus there are many categories of individuals who ought to receive protection but do not. An extended discussion of this issue is, however, outside the scope of this paper. “Rape, sexual assault, and unnatural offenses” are all addressed by Article 152 of the Egyptian Penal Code of 1936 which defines rape as “unlawful sexual intercourse with a female against her will by the use of force or threat of death or severe bodily harm or when she is in a state of unconsciousness or otherwise incapable of resisting.” This law does not preclude the criminalization of marital rape but otherwise suffers from many of the same limitations as Article 292 of the Jordanian Penal Code of 1960. Moreover, it is unclear from either penal code that the absence of a woman’s consent or even her refusal to engage in sexual intercourse would be sufficient for a rape conviction. Definition of the word “force” is ambiguous, particularly in the Egyptian law, which suggests that even if the intercourse is clearly “against [a woman’s] will,” force, threat, or incapacitation must also be present to consider it an act of rape. There is therefore no legal redress available to women, and others, who have experienced a wide range of non-consensual and/or violent sexual interactions.

¹²⁸ Interview with C.

Additionally, Article 152 of the Egyptian Penal Code of 1936 defines anyone who has “unlawful sexual intercourse or commits an act of sodomy with a child under sixteen (16) years of age” as a felon and suggests by omission that some categories of sexual activity with children may be legally permissible or at least not impermissible. In fact, Article 156 of the Egyptian Penal Code of 1936 defines as a misdemeanor marital intercourse with a girl younger than 15 but counts as a valid defense the fact that the girl has reached puberty or that a medical practitioner has provided a certificate stating that “no physical ill effects within the girl would likely follow the consummation of the marriage.” Furthermore, Article 294 of the Jordanian Penal Code of 1960 magnifies the sanctions when a crime is committed against a girl under the age of 15 but not girls between the ages of 15 and 18 although they are considered minors under the Palestinian Child Law of 2004.

Notably, the only legal codes in either the West Bank or Gaza that address domestic violence are the Palestinian Women’s Bill of Rights of 2008 and the Draft Law for Family Protection against Violence of 2009. Only the former addresses sexual harassment, and both are relatively recent documents that are rarely referenced in legal reports and documents about Palestinian women. Numerous other violations of a violent or sexual nature go entirely unmentioned in West Bank and Gazan law. The medical and psychological needs of women (and others) who have experienced sexual and domestic violence and abuse are largely ignored by Palestinian law.

An enormous obstacle to the reporting of incidents of sexual misconduct to the authorities in the West Bank and Gaza are personal status laws that require “a male relative (*wali*) to file a complaint on behalf of the victim if she is under 18 years of age. This becomes especially difficult when a family member is the perpetrator.”¹²⁹ However, S. claims that women do actually file reports of sexual misconduct on their own. “Last week, a wife and her sister went to report her husband to the Bethlehem police. They arrested him for sexual assault and beating them. He is in prison now. It was the Palestinian security police... there are advances, positive things.”¹³⁰

Additionally, “Public Prosecution [has] to rely on the victim or her/his relatives to press charges in order to be able to prosecute some crimes.” For example, according to Article 286 of the Jordanian Penal Code of 1960, prosecution for incest can be initiated by “a relative, or a relative by marriage, of one of the offenders up to the fourth degree.” In general, permitting individuals who have experienced sexual misconduct to choose whether and how they wish to proceed in the legal system increases their agency, which is undoubtedly positive for someone who has had their agency harmed through sexual misconduct. Nevertheless, if a perpetrator poses a threat to society and

¹²⁹ Jallad, *Palestinian Women and Security*, p. 8.

¹³⁰ Interview with S.

is likely to harm other individuals in the future, there should be a means for the state or other government bodies to initiate prosecution independently.

Many interviewees cited a widespread feeling that speaking up about experiences of sexual and domestic violence is, at best, a useless exercise and, at worst, a means of exacerbating an already negative situation. According to C, “many victims say it was a mistake that they opened their mouth,” because they are often offered no solution and find themselves in trouble with their families and husbands. Moreover, C. explained, there are no guarantees of justice, safety, or confidentiality if a woman files a complaint about sexual misconduct, especially if she is a minor. In C’s opinion, reporting rape is useless as the authorities are unlikely to imprison a rapist for any extended period of time and the best recourse for a victim of sexual abuse is to receive psychological help and for a victim of incest to have the mother educated on ways to protect her daughter within the family setting. C. was aware that girls and women often don’t tell their friends that they sought the help of a women’s organization or choose not to seek help.¹³¹ Such a choice is understandable given that counselors may put the responsibility on a mother and daughter to protect themselves rather than offering them strategies for removing themselves from a potentially dangerous situation or for seeking justice.

As C. emphasized, Palestinian women do not typically access resources intended to support them in cases of sexual misconduct. They are unaware of such resources, fearful of “scandals and family humiliation,” or distrustful of “core service justice providers (i.e., the court system, the police), public services such as school counselors, hospital staff, or shelters, and the services offered by human rights and women’s organizations.”¹³² There is no reliable means for a woman to ensure the quality and content of care of a women’s shelter or a women’s organization, as the work of these groups is not legally regulated in the West Bank or Gaza.¹³³

A culture of silence perpetuates resistance to reaching out to authorities, medical professionals, or NGOs. According to P:

No one talks about issues like this. Even the police, you can’t tell them about something like this. They only care about issues like Hamas, etc. No one talks about these issues, even in the West Bank [which might be thought to more open to discussion]. No one wants to talk about it. And if they talk about it, they talk about it among the people who are ministers and they are very high class and they know nothing about it. They just get together, talk about it, and say, “let us come up with a solution.”

¹³¹ Interview with C., Bethlehem, 28 April 2015

¹³² Chaban, “Promoting Gender-Sensitive Justice,” p. 159.

¹³³ Abu Dayyeh et al., *Palestinian Women and Security*, p. 6.

P. himself experienced abuse as a child and emphasized that silence should not be interpreted as the absence of sexual and domestic abuse: “Most of the children in Gaza, even if no one talks about it, have suffered sexual abuse from their father ... from the teachers.”¹³⁴

W. spoke about her experience as a hospital employee within this culture of silence, saying:

We might discover this issue [of raped women who become pregnant], but we do not deal with it. Sometimes we know and we hide it. And through the social worker we go and visit to see how is the situation, and if it is very heavy and difficult to deal with inside the hospital, then we ask the help of the agency of the social worker. We report it to them, and sometimes they report it to the police.¹³⁵

P. suggested that this silence is related to a sense of resignation to the inevitability of sexual misconduct:

There was a party made for this guy, ... and hundreds came to hear the music of this guy. And there was like more than 50 girls raped inside this situation. Like ten guys surround one girl and they rape her in the streets [where there were] a lot of people. And no one talks about it. It happens in the streets of Ramallah too.¹³⁶



J. Social Stereotypes and Gender Norms

States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women. – CEDAW, Article 5

As discussed throughout this report, much of the discrimination against Palestinian women stems from “social and cultural patterns of conduct,” a fact that was reinforced by nearly all individuals interviewed by JIJ representatives. R., a West Bank NGO representative, explained that because of deeply-embedded ideas about women’s role in society, NGOs working to combat discrimination against women cannot limit the reach of their work to just women. “If [NGOs] didn’t work with the males to show what

¹³⁴ Interview with P.

¹³⁵ Interview with W.

¹³⁶ Interview with P.

women can do, then our efforts wouldn't succeed," R. said.¹³⁷ J. emphasized this need to help women see beyond the roles that society has prescribed for them: "Very hard job with the women...To change the [mindset] of the women in the village [from] 'your position is to stay in the home,'[to] 'you must work, you must get money.' To [take care of] the children is important for [both] the father and the mother."¹³⁸

According to S, cultural prejudices are particularly entrenched in rural areas:

In a village, a woman, she doesn't behave like in a city. In Ramallah, you can find women sitting in a restaurant—three or four women sitting alone, drinking, ... smoking a nargilah. That's acceptable. A woman who does that in a village, she can be killed ... The villages are much more conservative."¹³⁹

V. explained that cultural stereotypes are a great hurdle for Palestinian women who wish to fight for more complete protection of their rights. "It's not easy because ... there is a culture gap," she said. "In what sense? You cannot scream, shout. You are a woman."¹⁴⁰

Such problematic cultural mores about gender roles have also found their way into legal codes. For example, Article 39 of the Jordanian Personal Status Law of 1976 states that: "The husband must consort with his wife in kindness and treat her with courtesy. The woman must obey her husband in the lawful matters." Article 40 of the Egyptian Family Rights Law Issue No. 303 of 1954 states almost identically that: "The husband must consort with his wife in kindness and the woman must obey her husband in the lawful matters".¹⁴¹ It is thus evident that culture and law reinforce one another and prevent a woman from choosing her own place in society.

III. Recommendations

- Most generally, the Palestinian Authority and Hamas should arrange for independent task forces to conduct thorough reviews of all laws in the West Bank and Gaza pertaining to women. Based on the recommendations of these task forces, laws should be annulled, revised, or completely rewritten with significant input from experts on women's issues and law. It should be ensured that laws are consistent with one another and uphold women's rights according to international standards. Areas of particularly pressing concern are sexual and

¹³⁷ Interview with R.

¹³⁸ Interview with J.

¹³⁹ Interview with S.

¹⁴⁰ Interview with V.

¹⁴¹ Al-Mashni et al., *Palestinian Women and Security*, p. 48

domestic violence and misconduct and divorce rights. Special attention should also be paid to protecting the rights of young girls.

- The law should be changed to ensure that men and women receive the same punishments for the same crimes.
- The Palestinian Authority and Hamas should ensure the existence of an enforcement mechanism for every law pertaining to women's rights.
- The Palestinian Authority and Hamas should establish, in conjunction with NGOs, formal programming to influence cultural attitudes toward women and women's rights and ensure the alignment of laws and cultural attitudes concerning women's rights. Such programming should include the implementation of educational curricula developed by experts on women's issues and professional teachers in schools throughout the West Bank and Gaza. Long-term educational programs in schools should address sex education, stereotypes about women's role in society, and the repugnance of honor crimes.
- In order to encourage women to work outside of the home, the Palestinian Authority and Hamas should provide financial incentives, possibly in the form of tax breaks for working women and subsidies for childcare.
- The Palestinian Authority and Hamas should provide funding for NGOs working to protect women and provide financial incentives, including tax breaks and seed funding, to promote the creation of more such organizations.
- The law should be changed to ensure that women do not face any restrictions on employment that are not also applicable to men, except in the case of restrictions that are intended to protect pregnant women.

- Laws should be revised, rewritten, and rigorously enforced to guarantee just punishment for those who commit honor killings.
- The clients of prostitutes in the West Bank and Gaza should be criminalized.
- Women should be encouraged by schools and government to run for public office. Part of this effort should include outreach to young girls by women currently holding public office.
- The law should be changed to reflect the equal standing of men and women's testimony in court or other official statements.
- The law should be changed to recognize the full range of sexual misconduct to which women (and men) may be subjected. Marital rape must, in particular, be criminalized.
- A public health campaign explaining the risks of incest should be implemented.
- The law should be changed to equalize access to divorce, allowing women similar ease as men in obtaining a divorce and extending the range of reasons and including "irreconcilable differences."



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