



Research Report

# ACCESS DENIED

Palestinian Women's Access to Justice  
in the West Bank of the occupied Palestinian territory:

Where are women? Where is women's accessibility to "justice"?  
Are there possibilities for justice in the context of military occupation?



March, 2014

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## Disclaimer

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# Map of the West Bank

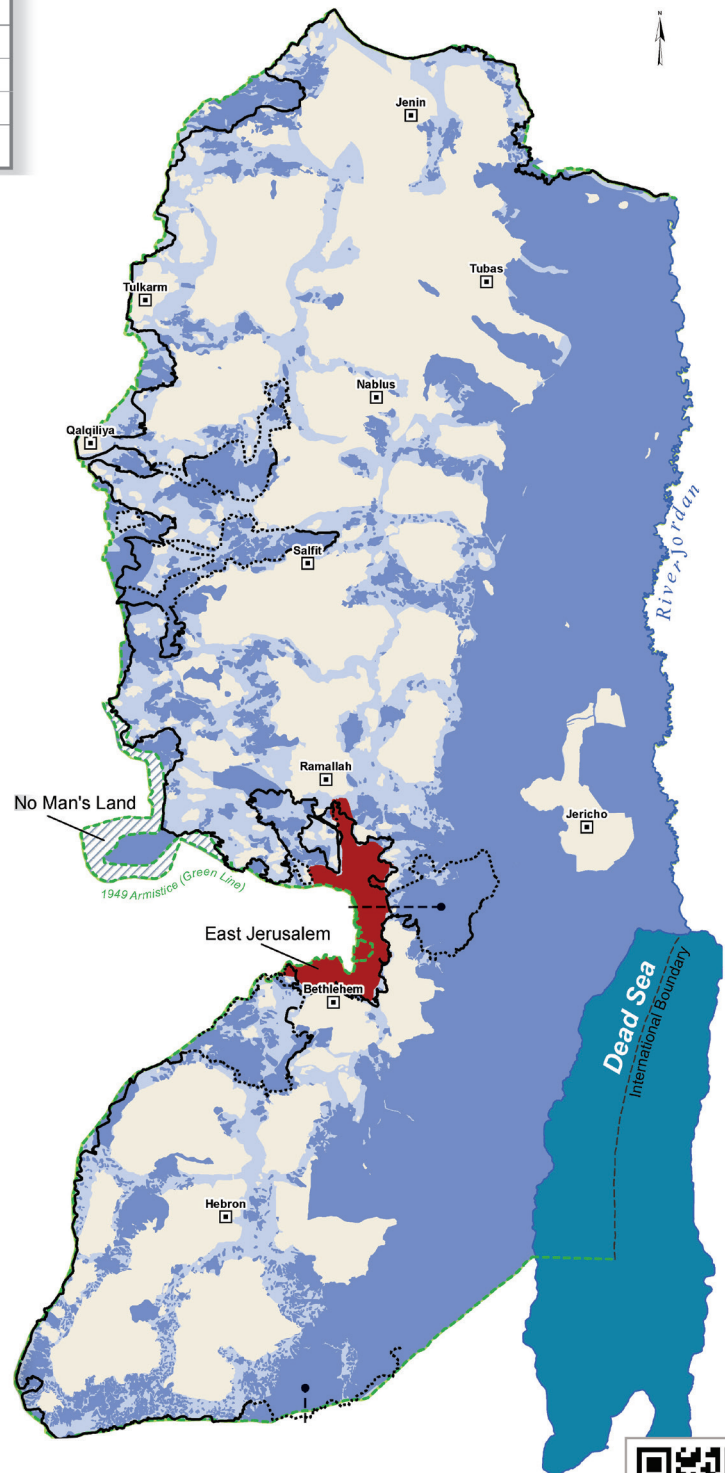


United Nations Office for the Coordination of Humanitarian Affairs occupied Palestinian territory

## AREA C OF THE WEST BANK: KEY HUMANITARIAN CONCERNS

January 2013

	Areas A/B
	Area C: areas within settlements' local and regional councils (70%)
	Remainder of Area C (30%)
	Governorate Capital
	1949 Armistice (Green Line)
	Barrier - Constructed / Under Construction
	Barrier - Planned





# Executive Summary

## General Background

This study examines the sociopolitical and psychological factors affecting, hindering, and/or promoting Palestinian women's access to justice in the West Bank of the Israeli-occupied Palestinian territory (oPt), with a specific focus on "Area C." It does not examine the situation in the Gaza Strip and in East Jerusalem; nevertheless, it is envisaged that similar research will be conducted in these two geographical areas of the oPt in the future. The aim of the research is to analyze the interrelationship between Palestinian women's experiences dealing with the local Palestinian legal system and the more complex militarized Israeli system within which it is embedded, be it through formal or informal institutions, while uncovering the various layers (both tangible and intangible) of bureaucracy, challenges, and restrictions they face in the process. The study also aims to examine the considerable hindrances Palestinian women face when they interface with civil society organizations, political institutions, and formal and informal Palestinian and Israeli agents and institutions of social and political control in their quest for justice.

The study identified the many factors that structure the experiences of Palestinian women when they engage with the various legal systems that prevail in this area: personal factors such as social status and family dynamics; social and political factors; spatial factors such as those found in Areas C, H1, and H2; legal system factors; bureaucratic factors; the relevant laws; and the case type and its specifics. These factors are analyzed in the context of settler violence occurring in the West Bank with the complicity of Israeli security forces. It bears noting that such violence constitutes a violation of international humanitarian law on the part of Israel as it is violating its obligation set forth in article 49 (6) of the Fourth Geneva Convention, which prohibits an Occupying Power from transferring citizens from its own territory to the occupied territory.

## Methodology

The research team included researchers and field workers who are familiar with research and fieldwork with female victims/survivors and women in conflict with the law. The study used qualitative research methodology, which can reveal meanings, processes, and attitudes. This methodology privileged voiceless Palestinian women and documented their experiences when they engage with the legal systems in the West Bank. The research used qualitative research tools such as semi-structured interviews and textual analyses for the relevant documents. Fifty-six women aged 19 to 50 were interviewed. They were from four main Palestinian areas: Bethlehem, Ramallah, Nablus, and Hebron. The types of cases in the study included: sexual assault and rape; violence within the family; divorce; and females whose lives had been threatened. The study participants

had the following social statuses: widow; divorced with and without children; re-married after divorce; married without children; married with children but separated; and single. The interviews also incorporated workers in the formal and the informal legal systems, including: lawyers, prosecutors, judges, directors of legal institutes affiliated with the Palestinian Authority, activists, and workers at relevant Palestinian NGOs in the area.

In addition, we conducted focus groups with women, including young women living in Areas C, H1, and H2. We analyzed various relevant texts, such as cases in which women are in conflict with the law; the articles of several laws; and previous studies on the issue, including formal statistics.

## Main Findings

The main study findings fall into three focal areas as detailed below.

### i. Paths to justice

The first focal area is the identification of the various paths Palestinian women in the West Bank take when they enter and engage with the prevailing legal systems as they seek to access justice. We examined cases of violence against women, looked closely at the hardships women endure when facing life-threatening crimes, and studied cases of rape and sexual abuse. Furthermore, we analyzed the multiple paths women victims/survivors and those in conflict with the law needed to take as they navigated the local legal systems. In particular, the study focused on the geopolitical and temporal factors affecting women's access to justice in geographic areas where highly complex arrangements for administrative and military control have resulted in severe fragmentation of communities and social services delivery, as well as extreme restrictions on Palestinians' freedom of movement—namely, Areas C, H1, and H2.

### ii. Women facing injustices, charges, and attacks within the criminal justice system Police/Family Protection Unit (FPU)

The second focal area explored what happens to Palestinian women victims/survivors at each station along these various paths. In this regard, the study addressed and examined questions such as what happens to women while they stay at the Family Protection Unit (FPU) and how the staff perceive and respond to women's voices, rights, and needs. Within this area, the study also investigated how prosecutors, courts, shelters and prisons handle cases involving violence against women. The study also explored what kind of treatment the families give to these women.

### iii. Main themes of analysis

Finally, the study analyzed the factors and hardships affecting women's access to justice. Here, both women's voices and the reactions of social control agents as well as the narratives gathered from focus groups allowed us to comprehend and fully explore the ways in which the militarized spatial politics, conflicting



laws, and discrepancy of legal frameworks negatively impact Palestinian women who seek to access justice. Furthermore, the study findings clearly show that the geopolitical fragmentation/closure of the entire area and the time spent to call for or get help create tremendous blockages to women seeking to access justice in the West Bank. This fragmentation is further exacerbated by the commuting of cases from one area to the other, from one judge to another, from one welfare or women's organization to the other—and all these obstacles delay addressing the urgent needs for safety, security, and life. In the process, female victims/survivors and those in conflict with the law are often stigmatized and end up being afraid of and regretting that they ever engaged with the legal systems in the first place.

## Conclusion

Focusing on access to justice in the West Bank has allowed us to delve deeply into spatiotemporal, socio-legal, political, and economic factors and ideologies to uncover hidden abuses and analyze the policies and practices that hinder Palestinian women's ability to access the prevailing legal systems in the West Bank and enjoy their rights to a secure and dignified life. The study findings clearly demonstrate that Palestinian women and men, victims/survivors, legal professionals, and service providers tend to neither trust the legal systems nor believe in their ability to address women's needs or be attentive to women's hardships.

Our main conclusion is that without questioning the politics and bureaucracies of justice under such spatiotemporal constraints and violence, and without responsible, comprehensive, and contextually sensitive socio-legal formal and informal systems of intervention, Palestinian society will continue to suffer from profound abuse by the Occupying Power, and Palestinian women and girls will remain the most disadvantaged group in an unequal social justice system. The failure to defend women and girls, and wider society, from broken political and socio-legal systems not only violates their right to access justice but also entrenches a gender-discriminatory structure and mores that enable the continued abuse and traumatization of present and future generations of women and with them, their children. Until this systematic phenomenon is acknowledged, confronted, and transformed, Palestinian women and girls living in the West Bank will continue to find their access to justice denied, and the repercussions to Palestinian society generally will be felt for generations to come.

To even begin to make justice adequately accessible to Palestinian women in the West Bank, with the very complex situation of belligerent military occupation that currently exists there and all of its socio-political ramifications and multiple legal systems (both formal and informal), we recommend starting with the following:

1. Engaging with women's narratives and soliciting their cooperation in increasing women's capacities to claim their rights in their own terms, languages, and strategies.
2. Ensuring that service delivery by legal actors

and other social control agents (e.g., civil society, feminists, social welfare centers) is gender-sensitive. Patriarchal ideologies—when embedded in a pre-structural condition of military occupation and juxtaposed with the multiplicity of service delivery in a fragmented geo-political space—result, as this study has shown, in jeopardizing women's access to justice. We therefore recommend that service providers be more attentive while putting women's safety, needs, and context at the forefront of their service delivery.

3. Evaluating compliance of the applicable legal framework to international human rights and humanitarian law standards, while contextualizing it with the political situation in the West Bank.
4. Learning, documenting, and disseminating best practices that engage with the informal justice system, and which keep women at the center of any proposed informal community intervention.
5. Promoting cooperation between the various NGOs and international organizations in building special training projects for lawyers, judges, social workers, and women.

The study concludes by explaining that although specific practical steps can and should be taken to ease Palestinian women's access to justice, as women and girls should not be left alone in such a complex, fragmented, and dysfunctional system, the present conditions of political uncertainty, added to the pre-existing condition of dispossession from the Occupying Power, makes the likelihood of effecting the types of sweeping changes needed to ensure true access to justice very slim.

# Introduction

This study examines the sociopolitical and psychological factors affecting, hindering, and/or promoting Palestinian women's access to justice in the occupied Palestinian territory (oPt), with a focus on the West Bank and more specifically on "Area C."<sup>1</sup> The aim of the research is to analyze the interrelationship between Palestinian women's experiences as they attempt to gain access to justice in the West Bank and the local Palestinian justice system, be it through formal or informal institutions, while uncovering the various layers (both tangible and intangible) of bureaucracy, challenges, and restrictions they face in the process. The study also aims to examine the considerable hindrances women face when they approach civil society organizations, political institutions, and formal and informal Palestinian and Israeli agents and institutions of socio-political control when accessing justice. The main questions this study raises are as follows:

- How is women's access to justice in the West Bank structured and constructed? Who are the main actors?
- How do women interact with these actors in the various areas of the West Bank?
- What challenges do women face when they engage with the West Bank justice system (both formal and informal)?

The growing recognition of the hardships facing formal and informal institutions in their efforts to offer gender-sensitive access to justice to women living in conflict zones encouraged us to examine how Palestinian women in the West Bank seek help, and, through their experiences, map and analyze the potential resources available to them when they need the intervention and involvement of the justice system. To do so, we began this study by soliciting women's stories, not only of their experiences with the formal justice system, but also of the hardships they and their female friends had faced in their own lives. These inputs were then used to investigate how women perceive, trust, or seek the help of services offered by the justice system in the West Bank.

In order to answer our research question and other questions, which will be elaborated later in the report, we adopted a qualitative research methodology using semi-structured interviews and textual analyses for this study. The process of data collection, the tools used, the research methodology, and the initial themes of analysis are described in the body of the report.

Women's access to justice requires that we remember that women's rights are human rights, and that they should be addressed and dealt with in an equal manner. Access to justice, as we see it, requires that structural

factors should be examined to understand the mode in which existing justice systems develop paths, services, laws, procedures, bureaucracies, and other mechanisms of protection for those they ostensibly serve. Protecting women includes, inter alia, ensuring that they have access to services such as welfare, legal services, and legal protection, access to the workplace, to the health care institutes such as hospitals, access to their land, and more. In the context of the occupied West Bank, this protection also includes defending Palestinian women against the patriarchal systems and practices embedded in their traditional society, as well as in the context of the Israeli military occupation that was imposed on their society in 1967, and their community in 1948. We conclude that the failure to identify structural factors hindering women's access to justice and the inability of both the formal and informal justice systems to prevent women's poverty, challenge sociopolitical inequality and violence against women (VAW), and punish the practice of child marriage all hinder Palestinian women's ability to achieve justice and security in the West Bank.

To understand women's accessibility to justice, we must address, among many topics, women's property rights and interventions in cases of divorce, inheritance, spousal abuse, political violence, and more. Justice for women is far more than simply passing laws and regulations; it requires strengthening the community and the political system to prevent harm to present and future generations of Palestinians.

The Palestinian case study, focusing on access to justice in the West Bank, allowed us to delve into spatio-temporal, socio-legal, and political and economic factors and ideologies to uncover hidden abuses and analyze the policies and practices that hinder women's access to the justice system and their right to a dignified life. The study findings clearly demonstrate that Palestinian women and men, victims/survivors, legal professionals, and service providers tend to neither trust the justice system nor believe in its ability to address women's needs or be attentive to women's hardships.

Our main conclusion is that without questioning the structural factors affecting women's access to justice, without a closer look at the politics of bureaucracies of justice, and without responsible, comprehensive, and contextually sensitive formal and informal socio-legal systems of intervention, Palestinian society will continue to suffer serious human rights abuses by those in power, and Palestinian women will remain the most disadvantaged group in an unequal socio-economic justice system. The failure to defend women, and wider society, from a hybrid of a mix of old and new, gender-sensitive and gender-oppressive, formal and informal political and socio-legal systems not only violates the right of women to access justice, but also entrenches a gender-discriminatory structure and mores that enable the continued abuse of present and future generations of women. Until this systematic phenomenon is acknowledged, confronted, and transformed, Palestinian women living in the West Bank will continue to find their access to justice denied.

<sup>1</sup> 'Area C' denotes an area in the occupied West Bank that, under the Oslo II Accord of 1995, was designated to fall under ostensibly temporary Israeli civil and security control for about 5 or 6 years, after which time it was slated to return to Palestinian control. This never took place, and Area C remains under Israeli control today. These areas include all Israeli settlements (cities, towns, and villages), nearby land, most roadways that connected the settlements (and which are exclusively for Israeli use) as well as areas denominated as strategic and described as "security zones." As of 2012, there were more than 300,000 Israeli Jewish settlers living in Area C.

# The Sociopolitical and Legal Context for this Study

The United Nations Development Program (UNDP) defines access to justice as: “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards.” UNDP identifies six key stages in the access to justice process. The first stage, **legal protection**, is the provision of legal standing in formal or traditional law. Legal protection determines the legal basis for all other stages in the access to justice process. The second stage, **legal awareness**, relates to people’s knowledge of the possibility of seeking redress through the justice system, whom to demand it from, and how to start a formal or traditional justice process. The third stage, **legal aid and counsel**, includes the capacities (from technical expertise to representation) that people need to initiate and pursue justice procedures. Legal aid and counsel can involve professional lawyers, laypersons with legal knowledge, and paralegals. The fourth stage, **adjudication**, describes the process of determining the most adequate type of redress or compensation. The means of adjudication can be regulated by formal law, as in the case of courts, or by traditional legal systems. The process of adjudication includes a series of sub-stages such as investigation, prosecution, and decision. The fifth stage, **enforcement**, relates to the implementation of orders, decisions, and settlements emerging from formal or traditional adjudication. Enforcement systems are crucial to ensuring accountability and minimizing impunity, thus preventing further injustices. The sixth and final stage, **oversight**, includes watchdog and monitoring functions that civil society actors or parliamentary bodies perform with regard to the justice system. Strengthening overall accountability within the system is critical to ensuring effective reforms.<sup>2</sup> This study describes and maps what Palestinian women face as they navigate through these stages in their attempts to access justice within their communities.

Access to justice is critical for women living in conflict or post-conflict situations, in the context of occupation and other oppressive systems. It is particularly important in the Israeli-occupied West Bank, where every political, economic, and social sphere of life begins and ends in the history of injustice and continual denial of the rights of Palestinians.

Our analytical point of departure perceives the denial of women’s access to justice as a tool of patriarchal control in the context of a continuous political conflict. Our analysis is based on the critiques of various scholars of women of color and Native American women, including Andrea Smith, who pointed out that analyses of VAW and

women’s access to justice cannot be divorced from the structure of violence, racism, discrimination and classism. Theorist Kimberlé Crenshaw concurs with this position when she argues that it is inadequate to investigate the oppression of women of color by examining racial and gender oppression separately. She hence advocates for an intersectional approach that looks at the overlap between race, class, and gender.<sup>3</sup>

When Palestinian women try to access justice, and in the context of settler violence, they face hardships not only as women but also as members of a national group being targeted for hegemony and control. Their identity as women cannot be separated from their identity as Palestinians facing dispossession. Basing our analysis on philosopher Ann Stoler, we argue that racial ‘otherness’ is embedded in the social fabric of the settlement enterprise and “is woven into the web of the social body, threaded through its fabric.”<sup>4</sup> The process of constant dispossession and continuous political violence in Palestine turns women who need to access the justice system into ‘dissenters’ who should be kept silenced, hidden, and/or eliminated. Women living under such unjust conditions, particularly when needing to access justice, are identified as external and internal threats to their communities and to society at large. Gender discrimination under such conditions thus marks women’s lives and bodies as “abnormal.”

The dominance of violence, poverty, and intractable conflict in the occupation context of the Palestinian justice system, as Shalhoub-Kevorkian describes,<sup>5</sup> result in a dysfunctional legal system that is maintained by systematic denial of the perpetuation of violence against women and a failure to comprehend the intricacy of the Palestinian socio-legal structure. Blocking women’s access to justice – whether through inappropriate laws and bureaucracies, conflicting and inconsistent legal systems, or restrictions on their mobility and ability to reach out and call for help – will likely perpetuate women’s disadvantaged status in a marginalizing system.

Analyzing the connection between women’s access to justice, spatial movement, and geopolitics and economy under the occupation context of the West Bank should also be rooted in a detailed understanding of belligerent military occupation.

We therefore argue that the examination of women’s access to justice in conflict zones such as Palestine should not simply address the existing judicial systems, but should venture further to examine how the interrelationship between the social patriarchal system and the masculine militarized occupation in Palestine shapes the structures and logic of women’s accessibility and inaccessibility to justice.

Several formal and informal justice mechanisms exist in the judicial system in the West Bank. Civil society and feminist organizations have played an important role

2 According to United Nations Development Programme (UNDP). (2005). Programming for Justice: Access for All. As cited in: United Nations Development Programme (UNDP). (2009). Access to Justice in the Occupied Palestinian Territory: Mapping the Perceptions and Contributions of Non-state Actors. Retrieved from <http://www.undp.ps/en/fsh/pubs/a2jeng.pdf>.

3 Crenshaw, K. (1996). The intersection of race and gender. In Critical race theory, Crenshaw, K., Gotanda, N., Peller, G., & Thomas, K. (Eds.). NY: New Press.

4 Stoler, A. (1997). Race and the education of desire. Chapel Hill: Duke University Press, p. 59.

5 Shalhoub-Kevorkian, N. (2003). Re-examining femicide: Breaking the silence and crossing “scientific” borders. Signs, 608-581 ,(2)28.



in addressing and raising awareness to justice-related issues—a role that in some cases complemented, interfered with, and affected the existing informal and formal justice systems. Since its establishment in 1994, the Palestinian Authority (PA) has established domestic justice institutions to deal with the limited civil matters under its jurisdiction. The key institutions in the Palestinian justice sector are the High Judicial Council, the courts, the public prosecution, the Ministry of Justice, the Ministry of Interior, and the police.<sup>6</sup> This study attempts to understand women’s access to each of these institutions in addition to the existing socio-legal system and to reveal the role that each system plays in enabling or preventing women’s access to justice within the West Bank. To further elucidate the existing structure of justice in the West Bank, we elaborate on two main factors among many others (such as poverty, unemployment, the role of civil society organizations, etc.) that this study has identified as being major to understanding how Palestinians view the justice system, on the one hand, and how it actually functions, on the other. The first factor is the geopolitical one, and the second is the Palestinian court system in the West Bank. It should be noted that although the court is the last to be addressed in the chain of justice, among women participating in this study, the court’s power and role in reproducing patriarchy and transforming women’s accessibility to justice was perceived to be major. In addition, the effect of geopolitical as well as politico-economic factors can’t be underestimated.

## The context and characteristics of Area C

Following the Oslo II Agreements of 1995, the West Bank (except East Jerusalem) was administratively divided into three zones: Area A was placed under Palestinian civil and security control; Area B, under Palestinian civil and shared Israeli-Palestinian security control; and Area C, under full Israeli security control and almost full Israeli civilian control. Area C comprises the largest portion of the West Bank, and it engulfs and separates the fragmented Areas A and B. Area C also constitutes most of the fertile and resource-rich land in the West Bank.<sup>7</sup>

Area C constitutes 62% of the West Bank, with 5.8% of the Palestinian population. Palestinian presence in Area C has been routinely undermined through different administrative measures, planning regulations, and other methods adopted by Israel as an Occupying Power.<sup>8</sup> Before 1967, there were 200,000 to 320,000 Palestinians in the Jordan Valley. Today, the number of Palestinians in the region is 56,000 (of which 70% live in Area A in Jericho). The increasing integration of Area C into Israel proper has left Palestinian communities in the area ever more isolated.<sup>9</sup> This isolation is manifested in the daily lives of Palestinians through their participation in multiple

bureaucratic systems, including the legal system. The isolation is more apparent with women as a marginalized group in society. This compound marginalization by the Israeli military regime and the Palestinian patriarchal social authorities makes women’s access to formal judicial institutions extremely difficult and sometimes entirely impossible. The inability of the Palestinian Authority (PA) to access Area C has severely impacted women’s and girls’ accessibility to essential services and deprived them of resources such as education, welfare, health, police, courts, and more. With no official PA presence, added to the economic deprivations and military control, women’s and girls’ physical safety and psychosocial security is imperiled.

In August 2009, Palestinian Prime Minister Salam Fayyad introduced his two-year statehood plan entitled *Ending the Occupation, Establishing the State*. With regard to Area C, Fayyad said: “Area C is not disputed territory, it is occupied territory, and the Israelis have to relinquish control [...] It is an integral part of where the Palestinian state is going to emerge.”<sup>10</sup> Despite this declaration, the Palestinian government did not give much attention to Area C in their national plans. The Palestinian Reform and Development Plan of 2008-2010 (PRDP) did not take Area C into full consideration, nor did it give recommendations on how to deal with the needs of the Palestinian residents there. Similarly, the Palestinian National Development Plan of 2011-2013 (NDP) did not give clear guidance on how the Palestinians would deal with Area C, seam-zones, or East Jerusalem. The lack of government attention toward Area C is a reflection of the Palestinian government’s inability to exercise any authority or implement policy in the area due to monolithic Israeli control. This reality inhibits Palestinians in Area C from participating in formal national institutions to address their social and economic needs. It also sends the message to many Palestinians never to move to, live or build in, or establish schools or other social services in, Area C.

This study explores how this structure of negligence, reluctance, and inability to act in such an inaccessible area as Area C has influenced the manner in which women’s access to justice – or lack thereof – affects their lives. Through accounts of women’s considerable obstacles and analyses of their shared voices, we hope to provide a detailed understanding of the hardships facing women in their attempts to access justice.

The Israeli military administration or so-called “Civil Administration” (CA) was established by the Israeli government in 1982 pursuant to Military Order No. 947, with the mandate to “administer the civil affairs in the area [West Bank](...) for the welfare and benefits of the population and provision and operation of public services, considering the need to maintain proper administration and public order in the area.”<sup>11</sup> Its mandate includes serving both Israeli settlers and Palestinians. However, because of this conflicting dual role, the Civil

6 United Nations Development Programme (UNDP). (2009). Access to justice in the occupied Palestinian territory: Mapping the perceptions and contributions of non-state actors. Retrieved from <http://www.undp.ps/en/fsh/pubs/a2jeng.pdf>.

7 World Bank WBG Strategy FY-08FY10. Retrieved from <http://www.passia.org/publications/bulletins/area-c/area-c.pdf>.

8 European Union Report. (2011). Retrieved from <http://rebuildingalliance.org/wp-content/uploads/03/2012/Area-C-Palestinian-State-Building.pdf>.

9 Ibid.

10 Middle East Online. (2009). Palestinian PM: New strategy for statehood. Middle East Online. Retrieved from <http://www.middle-east-online.com/english/?id=35434>.

11 European Union. (2012). Internal Report on “Area C and Palestinian State Building,” Brussels, January 2012 (Excerpts). As published in *The Journal of Palestine Studies*, 223-220 ,(3) ,41.

Administration does not govern for the genuine welfare of the local Palestinian population.<sup>12</sup> Palestinians living in Area C have to contend with a range of restrictive Israeli policies and practices, including restrictions on movement and access and harassment from the Israeli military and settler violence, which makes daily life a never-ending struggle for the Palestinian population.<sup>13</sup> These restrictions drive already-impooverished families deeper into poverty.

A report published by B'Tselem in 2013 noted that "Israel's policy in Area C violates the essential obligations of international humanitarian law, namely: to safeguard occupied territory on a temporary basis; to refrain from altering the area or exploiting its resources to benefit the occupying power; and, most importantly, to undertake to fulfill the needs of the local residents and respect their rights."<sup>14</sup>

Furthermore, in a fact sheet published by OCHA in January 2013, it was reported that Israel retains near exclusive control in Area C, including over law enforcement, planning, and construction. OCHA's fact sheet further reported that 24% of the Palestinian population in Area C is food insecure.<sup>15</sup> If we add all this to the demolitions and forced evictions that deprive people from their homes, disrupt their livelihoods, and make them more impoverished and aid-dependent, we realize that women and children are turned into highly vulnerable entities.

This exclusion of the Palestinians, corralling them into an area akin to that which Giorgio Agamben referred to as the 'bare life' area,<sup>16</sup> has resulted in women's being "doubly excluded" and has created an inordinately complex context for women wishing to gain access to justice. Because the Palestinian judicial system is still influenced and structured by mandate and former laws (Ottoman, Jordanian, and British) promulgated in the last century, this study also attempts to expose the deficits in the old laws and to suggest legal reforms necessary to free women from this outdated legislation, which places many obstacles in the way of women's unimpeded access to true justice.<sup>17</sup>

12 Middle East Online. (2009). Palestinian PM: New strategy for statehood. Middle East Online. Retrieved from <http://www/middle-east-online.com/english/?id=35434>.

13 United Nations Office for Coordination of Humanitarian Affairs, occupied Palestinian Territory. (2011). Humanitarian factsheet on Area C of the West Bank, July 2011. Retrieved from [http://www.ochaopt.org/documents/ocha\\_opt\\_Area\\_C\\_Fact\\_Sheet\\_July\\_2011.pdf](http://www.ochaopt.org/documents/ocha_opt_Area_C_Fact_Sheet_July_2011.pdf).

14 Kadman N. (2013). Acting the Landlord: Israel's policy in Area C, the West Bank. Report summary. Retrieved from B'Tselem website [http://www.btselem.org/publications/201306\\_area\\_c](http://www.btselem.org/publications/201306_area_c).

15 United Nations Office for the Coordination of Humanitarian Affairs, occupied Palestinian Territory. (2013). Area C of the West Bank: Key humanitarian concerns, January, 2013. Retrieved from [http://www.ochaopt.org/documents/ocha\\_opt\\_area\\_c\\_factsheet\\_January\\_2013\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_area_c_factsheet_January_2013_english.pdf).

16 Agamben, G. (1998). Sovereign power and bare life. Redwood City, CA: Stanford University Press.

17 On the issue of the need for legal reforms, see Anderson M. (1999). Access to justice and legal process: Making legal institutions responsive to poor people in LDCs. Paper discussion at WDR Meeting 17-16 August 1999. Retrieved from <http://siteresources.worldbank.org/INTPOVERTY/Resources/WDR/Dfid-Project-Papers/anderson.pdf>.

## The context and characteristics of Areas H1 and H2

### The military geography of Hebron

Since 1997, following the Hebron Protocols, Hebron has been divided into two areas, H1 and H2. H1, home to about 140,000 Palestinians, is theoretically under the Palestinian Authority's control, while H2, home to about 35,000 Palestinians and 500 Israeli settlers, is under Israeli military control. In order to move between these two areas, one needs to cross through military checkpoints. Within the H2 area, there is also a difference between the "unrestricted" and "restricted" areas. The old souq (market) is under Israeli military control, but Palestinians are able to move in the area. Parallel to the old souq is Shuhada Street, along which there are four Israeli settlements and two military bases; Palestinians are forbidden from moving through this area. In order to keep Shuhada Street an enclosed area for settlers only, the Israeli army built a number of roadblocks, barbed wire entrances, concrete walls, and checkpoints.

Palestinian movement within the Israeli-controlled section of Hebron City (H2) remains subject to severe restrictions. This area is segregated from the rest of the city by over 120 closure obstacles, and Palestinian vehicular, and in some cases pedestrian, traffic, is still banned along certain streets. As a result, those Palestinians who still live in the area continue to suffer from poor access to basic services, including schools.<sup>18</sup>

What are the security arrangements in Hebron like today?

In the wake of the Ibrahimi mosque massacre in 1994, Israel imposed new security arrangements on the city of Hebron, ostensibly to prevent revenge attacks on settlers by Palestinians. These arrangements – formalized in the "Protocol Concerning the Redeployment in Hebron" (aka "the Hebron Agreement") in January, 1997 – became the foundation for the long-standing division of Hebron and the effective closure and depopulation of the central Palestinian market area.

Under the Hebron Agreement, the city was divided into areas designated as H1 (18 sq. km., under full Palestinian Authority control) and H2 (4.3 sq. km., under full Israeli control and home to most of Hebron's settlers, as well as more than 35,000 Palestinians). From the start of the second intifada, the Israeli Army resumed open operations in H1. In April 2002, as part of Operation Defensive Shield, the Israeli Army re-took control of H1, and in August 2003 began constructing two permanent, squad-sized fortified posts in the neighborhoods of Abu Sneineh and Harat al-Sheikh, which overlook the homes of Hebron's Jewish settlers in the city center. While the Israeli Army had maintained a temporary presence in this area since the beginning of the intifada, this marked the first establishment of a permanent Israeli Army presence in H1 since the implementation of the Hebron Agreement. The immediate area around the new military outposts was declared a "closed military zone" without

18 United Nations Office for the Coordination of Humanitarian Affairs, occupied Palestinian territory. (2012). West Bank Movement And Access Update, September 2012. Retrieved from [http://hlnr.org/img/violation/ocha\\_opt\\_movement\\_and\\_access\\_report\\_september\\_2012\\_english.pdf](http://hlnr.org/img/violation/ocha_opt_movement_and_access_report_september_2012_english.pdf) – 2013/15/7.

any warning to its residents, who were barred from the area. About 50 dunams of land were expropriated for both sites.

In addition, during the intifada, Palestinian residents of H2 and neighboring areas of H1 were subjected to the harshest restrictions on movement of any population in the West Bank. According to the Israeli human rights organization, B'Tselem: "At the beginning of the intifada, the area was under curfew for three consecutive months. Following the killing of the [Israeli] infant Shalhevet Pass [March 2001], a curfew was imposed for three weeks. After the attack on Worshippers' Way [November 2002], in which nine security forces and three auxiliary personnel from Kiryat Arba were killed, the IDF [Israeli Defense Forces] imposed a curfew for six months. The curfew also applies to the Bab a-Zawiya area (located in Area H1 near Area H2), which the IDF has controlled since Operation Defensive Shield (April 2002). The IDF also imposes a curfew on Area H2 in response to Palestinian shooting at settlers from Area H1(...)In other cases, the IDF imposes curfew on Palestinians to enable settlers to maintain their way of life and to hold public events in the city during Jewish and national holidays. For example, on 23 September 2002, during Sukkoth, the IDF imposed a curfew on Palestinians to enable Hebron's settlers to host safely thousands of Israelis who had come to visit the city. Last Purim, the IDF imposed a curfew to allow settlers to conduct their annual parade and because it was the anniversary of the death of Baruch Goldstein, who committed the massacre in the Tomb of the Patriarchs."<sup>19</sup>

The spatial restrictions on movement, added to the Israeli Army's severe modes of surveillance and control, the deprivation of vital services such as health, education, welfare, and others have a heavy and direct impact on women's and girls' lives. This study brings to the forefront Palestinian women's words, experiences, and reactions to the intrusive conditions that compromise women's and girls' human rights and their ability to access justice.

## The Palestinian court system in the West Bank

The Palestinian court system in the West Bank consists of five different levels of courts, detailed below.

### Civil court system

The first level of Palestinian courts includes Conciliation and First Instance Courts. Conciliation Courts are used to judge civil disputes and criminal cases. Conciliation Courts are also specialized to adjudicate the following cases regardless of the case value: division of movable and immovable properties, eviction, partition of joint property, evacuation of leased premises, and a number of other property and land-related cases. Conciliation Courts also have jurisdiction to try significant or high-profile criminal cases. First Instance Courts have the jurisdiction to hear all claims in civil cases that do not fall within the jurisdiction of the Conciliation Courts and can also hear

appeals from the Conciliation Courts. In terms of criminal cases, First Instance Courts hear cases of a higher level of seriousness as stipulated by the Penal Procedure Law and the Criminal Procedure Law.

The second level of Palestinian courts is the Appellate Courts or Courts of Appeal. The Appellate Court sessions are convened by three judges who hear appeals on civil and criminal cases.

The third level is the High Court (Supreme Court), which is comprised of the Court of Cassation and the High Court of Justice. The Court of Cassation exercises jurisdiction over civil and criminal challenges from the Courts of Appeal, challenges to the First Instance Courts in their appellate capacity, and matters related to changing the terms of reference for a case. The High Court of Justice is responsible for reviewing: challenges related to elections; requests presented by interested parties for the cancellation of final administrative regulations and decrees; applications opposing imprisonment that entail the issuance of orders to release persons who have been detained illegally; public employee disputes; and administrative disputes. There is also a specialized Income Tax Appellate Court under the supervision of the Judicial Authority, as well as a Municipal Court in each Conciliation Court, which reviews violations of municipal laws.<sup>20</sup>

### Religious court system

Shari'a Courts for Muslims and Church Courts for Christians deal with matters of family status such as marriage, divorce, alimony payments, and child custody.

### Military court system

Military courts try crimes that are defined as "security" crimes, committed against security personnel – the police and security forces – and crimes by civilians against security forces. These courts apply PLO (Palestine Liberation Organization) revolutionary laws. According to the International Commission of Jurists (ICJ), the parameters under which these courts may try civilians are unclear. The ICJ also asserts that: "The PA affords itself wide discretionary powers in deciding which cases are to be prosecuted before which courts," and that "On several occasions, military courts have transferred jurisdiction over cases in which the civilian Attorney General has claimed jurisdiction."<sup>21</sup>

### The informal "tribal" dispute resolution system

In addition to the formal Palestinian justice system, a traditional or "clan-based" justice system also functions throughout the West Bank and elsewhere that Palestinians reside. This social phenomenon comprises the settlement of disputes between citizens outside of the formal justice system and includes clan-based sulha, a traditional indigenous method of conflict resolution through conciliation and clan-based law adjudicated by clan-based judges.<sup>22</sup>

20 United Nations Development Programme (UNDP). (2009). Access to Justice in the Occupied Palestinian Territory: Mapping the Perceptions and Contributions of Non-state Actors, p. 11. Retrieved from <http://www.undp.ps/en/fsh/pubs/a2jeng.pdf>.

21 United Nations Development Programme (UNDP). (2009), p. 12.

22 Birzeit University Institute of Law. (2006). Informal justice: Rule of law and

19 Friedman L. & Etkes D. (2005). Hebron – Settlements in focus. Retrieved from Peace Now website <http://peacenow.org.il/eng/content/hebron-settlements-focus>.



## Military laws of the Israeli judicial system

Israeli military laws continue to have extensive direct control over the daily lives of Palestinians living in the West Bank. These laws reflect the local political reality, in which Israel has the power to detain Palestinians, restrict their freedom of movement, limit accessibility to natural resources, confiscate land, and declare curfews. Permits issued by the Israeli military are required for numerous aspects of life, including building homes, working in Israel or East Jerusalem, and traveling around the West Bank.<sup>23</sup>

Through this study, we try to travel between these myriad “justice” systems and explore how Palestinian women’s entry to these various institutions in different types of cases (criminal, political, civilian, etc.) affects women’s access to justice. By focusing on women’s experiences, we shed light on access to justice for socially and spatially marginalized groups in occupied areas. The study also examines access to justice in Area C, where Palestinians are primarily governed by the Israeli legal system, have pseudo-Palestinian laws at work, and where women are objects of control of both the occupying legal system and patriarchal Palestinian legal practices.

A recent report published in June, 2013 by HaMoked: Center for the Defense of the Individual exposed the destructive bureaucratic mechanisms governing the daily lives of Palestinians under the permit regime inside the “seam zone.”<sup>24</sup> The report’s main data are solicited from various reports published by the UN Office for the Coordination of Humanitarian Affairs (OCHA). The report reveals the ways in which Palestinians’ rights to freedom of movement violate their rights to family life, health, education, property, livelihood, and cultural and community life. The report notes that such violations further constitute a severe breach of people’s rights to safety, equality, and dignity.

## Access to justice and violence against women in the West Bank

Palestinian women living in the occupied West Bank suffer from violence that reflects a triple, gendered oppression that is connected to the military occupation that not only militarized the area and its people, but also impoverished them; patriarchal ideologies, policies, and practices; and socio-legal discrimination. They are subjected to multiple forms of violence by the policies of the prolonged Israeli military occupation (such as home demolitions, the closure of every neighborhood behind Israeli military checkpoints that severely restricts mobility in daily life, inspections at checkpoints, being forced to give birth at checkpoints, and difficulty accessing health centers, work places, schools, and universities, not to mention relatives’ homes and other social supports). Violence against women when perpetrated by the Israeli system is

exercised on at least two levels: by authorities and troops in the Israeli occupying army, and by unofficial parties acting on their own volition to “take the law into their own hands” – often Jewish settlers (male and female). When VAW is perpetrated by the Palestinian patriarchal system, it is conducted through various internal social forces, be it the social/communal or the family systems; patriarchal oppression among religious power holders; or in health services, social and educational services, and economic opportunities (or lack thereof). In addition, patriarchal and gender-discriminatory oppression is exercised through local laws, bureaucracies, and laws that tend to disregard and/or marginalize women’s entitlements, needs, and rights, and that treat them unfairly by focusing on the promotion of male power and agency at the expense of female development in Palestinian communities.

## Available statistics

During preparations for the Palestinian National Strategy to Combat Violence Against Women (NSCVAW) 2011-2019, a paper submitted by the coroner Dr. Ziad Al-Ashhab showed an increase in the number of cases of women exposed to violence in the West Bank. In 2006, 64 cases of sexual assault were reported as compared to 85 in 2007, 339 in 2008, and 466 in 2009. The number of reported murder attempts against women was 72 in 2009, ranging from stabbing to poisoning, intense beating, denial of treatment following exposure to violence, burning, drowning, and falling. Palestinian police statistics for the West Bank in 2009 indicate that 1,173 cases of domestic violence and violence within the family were reported that year, ranging from physical abuse to attempted murder, threats, rape, attempted rape, and attempted suicide.

According to data published by the Family Protection Unit (FPU) covering the period 2010-2011, the FPU caseload was 1,755 cases and more than 2,500 reported incidents.<sup>25</sup> The report published by the FPU further indicates that in addition to the fact that their family violence case load when compared with those of other types of crimes is high, the cases of family violence reported to the police represent only a fraction of the actual incidents. The report further stresses: “It would be detrimental, not only to the opportunity to contribute to longer-term change processes, but also to the police’s credibility, if the FPU ended up not having the skills or resources to properly perform their work, thereby letting down victims/survivors.”<sup>26</sup>

A study conducted by the Palestinian Central Bureau of Statistics titled Violence Survey in the Palestinian Society (2011) revealed that among 5,811 Palestinian families (3,421 families in the West Bank and 1,797 in the Gaza Strip), 37% of married women surveyed (29.9% in the West Bank and 51.1% in Gaza) reported that they

dispute resolution in Palestine. Retrieved from <http://lawcenter.birzeit.edu/iol/en/project/outputfile/5/a391785614.pdf>.

23 Kelly, T. (2006). *Law, violence and sovereignty among West Bank Palestinians*. N.Y. and Cambridge: Cambridge University Press.

24 Cahana A. & Kanonich Y. (2013). *The permit regime: Human rights violations in West Bank areas known as the “seam zone.”* Jerusalem: HaMoked—Center for the Defense of the Individual. Retrieved from [http://www.hamoked.org/files/1157660/2013\\_eng.pdf](http://www.hamoked.org/files/1157660/2013_eng.pdf).

25 See the Palestinian National strategy to combat Violence against Women: 2011-2019. (2011-2019) <http://www.unwomen.org/~media/Headquarters/Media/Stories/en/PalestinianAuthorityNationalStrategytoCombat.pdf> and UN Women, Comprehensive Background analysis, and Recommendations for strengthening the Palestinian civil Police and Family Protection Unit, 2013. Titled: Policing For Palestinian Women’s Security and Justice.

26 UN Women, Comprehensive Background analysis, and Recommendations for strengthening the Palestinian civil Police and Family Protection Unit, 2013. Titled: Policing For Palestinian Women’s Security and Justice.

had experienced violence by their husbands in the last year. A majority, 58.6%, reported that they are experiencing psychological violence; 55.1% reported that they are exposed to economic deprivation; 54.8% experiencing forced social isolation; 23.5% physical violence; and 11.8% are exposed to sexual violence.<sup>27</sup> According to that survey, as a response to the violence, 30.2% sought refuge with family, while 65.3% kept silent. Only 0.7% of those women who experienced violence sought refuge in shelters. With regard to children, 51% of those surveyed reported being exposed to violence inside the household by at least one member of the household. Of these, 69% were exposed to psychological violence by their parents and 34.4% to physical violence. Disturbingly, data also indicate that violence continues to affect the elderly, with 7.3% of those 65 and over reporting that they suffered abuse from within their family.<sup>28</sup> The following tables show selected data from this and previous surveys that were conducted in both the West Bank and Gaza.

**Table 1: Violence against married women in three surveys<sup>29, 30</sup>**

Domestic Violence Survey	Psychological (%)	Physical (%)	Sexual (%)
First Survey (1994)	52.0	33.0	27.0
Second Survey (1995)	44.0	32.0	30.0
Third Survey (2005)	61.7	23.3	10.9
Fourth Survey (2011)	58.6	23.5	11.8

**Table 2: Percentage of ever-married women exposed at least once to a violent action by husband, different types of violence, and region, 2005 and 2011<sup>31</sup>**

Region	Psychological		Physical		Sexual	
	2005	2011	2005	2011	2005	2011
Palestinian Territory	61.7	58.6	23.3	23.5	10.9	11.8
West Bank	68.0	48.8	23.7	17.4	11.5	10.2
Gaza Strip	49.7	76.4	22.6	34.8	9.7	14.9

**Table 3: Percentage of never-married women (aged 18 years and over) who lived with household members and were exposed to at least 1 violent action: by different types of violence and region, 2005 and 2011<sup>32</sup>**

Region	Psychological		Physical		Sexual	
	2005 (%)	2011 (%)	2005 (%)	2011 (%)	2005 (%)	2011 (%)
Palestinian Territory	53.5	25.6	24.6	30.1	NA	0.8
West Bank	56.1	19.5	24.4	24.0	NA	0.7
Gaza Strip	47.3	35.3	25.1	39.7	NA	1.0

Based on statistics from the al-Muntada Coalition, 11 cases of femicide committed on the pretext of “family honor” were documented in 2009, 7 of which occurred in the West Bank. According to MARSAD (the Palestinian Security Sector Observatory), 13 women were killed in the West Bank under this pretext in 2012.<sup>33</sup> In 2013, and in recent publications by the Women’s Legal Aid and Counseling Center (WCLAC) based on the Palestinian Bureau of Statistics (published November 13, 2013, which does not include numbers covering all of 2013),<sup>34</sup> it was found that 28 cases of femicide occurred under the pretext of “family honor” in the PA-controlled area.

27 Palestinian National Authority, Palestinian Central Bureau of Statistics. (2011). Press Release: Main findings of Violence Survey in the Palestinian society, 2011. Retrieved from [http://82.213.38.42/Portals/\\_pcbs/PressRelease/el3onfNewenglish.pdf](http://82.213.38.42/Portals/_pcbs/PressRelease/el3onfNewenglish.pdf).

28 See UN Women (2013). Policing for women’s security and justice in the occupied Palestinian territory: A comprehensive background analysis, and Recommendations for strengthening the Palestinian Civil Police and Family Protection Unit.

29 Palestinian National Authority: Palestinian Central Bureau of Statistics. (2005). Press Conference on the Preliminary Results: Domestic Violence Survey – 2005. Retrieved from the Palestinian Bureau of Statistics website: [http://www.pcbs.gov.ps/Portals/\\_pcbs/PressRelease/Domestic\\_e.pdf](http://www.pcbs.gov.ps/Portals/_pcbs/PressRelease/Domestic_e.pdf).

30 الجهاز المركزي الفلسطيني – مسح العنف في المجتمع الفلسطيني 2011 – تقرير النتائج الرئيسية Retrieved from [http://www.pcbs.gov.ps/portals/\\_pcbs/PressRelease/Domestic\\_e.pdf](http://www.pcbs.gov.ps/portals/_pcbs/PressRelease/Domestic_e.pdf). (Arabic).

31 Ibid.

32 See [http://www.pcbs.gov.ps/Portals/\\_PCBS/Downloads/book1864.pdf](http://www.pcbs.gov.ps/Portals/_PCBS/Downloads/book1864.pdf).

33 Campaign against killing women calling the president to make changes on the Palestinian Law. (November 2012 ,10). Retrieved from <http://www.marsad.info/ar/content/>. (Arabic).

34 Women’s Centre for Legal Aid and Counseling (WCLAC). (2013, November 13). Workshop in Hebron: Feminist women requesting all the responsible institutes to stop killing women. Retrieved from <http://www.wclac.org/atemplate.php?id=310>. (Arabic).

The mechanisms that are available to Palestinian women to protect their rights and security can be divided into:

- Formal mechanisms, which include the legal framework and legislation such as the Palestinian Basic Law and the penal code, and the formal executive framework including the police, the judiciary, and the Ministry of Social Affairs
- Informal protection mechanisms, including the family, community and tribal system, religious personnel and institutions, political parties, women's institutions, and the family

These mechanisms are considered next.

### Women and formal protection mechanisms—the legal framework

The Palestinian Declaration of Independence includes a passage believed to guarantee gender equality. The document confirms that: "Governance will be based on principles of social justice, equality, and non-discrimination in public rights of men and women, on grounds of race, religion, color or sex, under the aegis of a constitution which ensures the rule of law and an independent judiciary."<sup>35</sup>

Article 9 of the amended Palestinian Basic Law further states: "All Palestinians are equal under the law and judiciary, without discrimination on the basis of race, sex, color, religion, political views, or disability." Article 10 goes on to declare: "The Palestinian National Authority shall work without delay to become a party to regional and international declarations and covenants that protect human rights."

However, the current legal system in the oPt in general, and in the West Bank in particular, is neither unified nor inherently Palestinian, and these articles of the Basic Law are not reflected in the legislative process. Furthermore, the first paragraph of Article 11, which states that "personal freedom is a natural right, and shall be guaranteed and protected" conflicts with some applied local laws, where women are deprived of their personal freedom and their right of choice and self-determination. This is demonstrated in the texts of local laws like the penal code and personal status law, which entrench women's dependency on men, regarding them as objects owned by male family members.<sup>36</sup>

While the PA has been responsible for introducing some new legislation since the 1993 Oslo Accords, the bulk of laws on record draw from the Ottoman and British Mandate eras, as well as from the Egyptian (Gaza Strip) and Jordanian (West Bank) systems. East Jerusalem, having been annexed by Israel, falls under Israeli civil legislative jurisdiction. In non-PA controlled areas of the West Bank (Area C and occasionally Area B), Israeli military law is used. Furthermore, tribal and customary laws are

frequently applied for resolving disputes at the local level or within families throughout the Palestinian Territory.<sup>37</sup> Hence, the applicable penal codes in each location are not based on the Palestinian Basic Law issued in 2003. As such, women do not have even the modicum of legal protection that should be provided by their own law. Rather, the laws in force throughout the West Bank treat women as the ones responsible for crimes perpetrated against them.<sup>38</sup>

The legacy of years of foreign domination can be clearly seen in the Palestinian legal framework. Some new Palestinian Authority laws apply to both the West Bank and Gaza, but Jordanian law (in the West Bank), Egyptian law (in the Gaza Strip), Ottoman law, and British law also remain in force throughout the territory. Furthermore, the Palestinian Authority has no jurisdiction to prosecute Israeli citizens suspected of perpetrating crimes in the West Bank or Gaza.<sup>39</sup> This study focuses on the penal laws in the West Bank, which have existed since 1960. These laws were passed by Jordan in the early 1960s, when the West Bank was under its rule before 1967. Those laws are the one's that women address when using the formal justice system.

Gender-sensitive legislation is one of the important and basic channels to justice, security, protection, and improved status within society. In the Palestinian justice system despite the numerous efforts to challenge patriarchy embedded in the structure of the justice system; the constant political hazards and violent changes hindered the various trials; and discriminatory laws still exist that make the justice system inaccessible to women.<sup>40</sup> Below, we present the laws relevant to women's lives in the West Bank, analyze their ability to be gender-sensitive, and analyze the effect of patriarchy and masculinity on their ideology, rhetoric, and policy implications.

## Analytical framework for relevant Palestinian laws and institutions (West Bank)

### The penal code

In the oPt area, two penal codes are invoked to assist women when accessing justice; the first is the Jordanian Code of 1960, used and applied in the West Bank, and the second is penal code of 1936 applied in Gaza Strip. Numerous proposed and contextually appropriate penal codes were proposed and submitted to the Palestinian

35 Palestinian National Council. (1988). Declaration of Independence. Retrieved from <http://www.multaqa.org/pdfs/PNC20%INDEPENDANCE20%DECLARATION.pdf>. (English).

36 Ministry of Women's Affairs, National Committee to Combat Violence against Women (2011). Palestinian National Strategy (PNS) to Combat Violence Against Women 2019 – 2011.

37 Chaban, S. (2011). Promoting gender-sensitive justice and legal reform in the Palestinian territories: Perspectives of Palestinian service providers. *Journal of International Women's Studies Special Issue: Arab Women & Their Struggles for Socio-economic and Political Rights*, 167-150 ,(3)12.

38 Palestinian National Strategy (PNS) to Combat Violence Against Women (2011) .2019 – 2011)

39 See also

<http://www.marsad.info/ar/tags/%D%87%9D8%9A%D%8A%6D%8A%-9D8%9%5D%83%9D%8A%7D%81%9D%8AD%D%8A%-9D%8A%7D%84%9D%81%9D%8B%3D%8A%7D%8AF-%D%8A%7D%84%9D%81%9D%84%9D%8B%3D%8B%D8%9A%D%86%9D8%9A%D%8A9>.

40 Shalhoub-Kevorkian, N. (2002). Femicide and the Palestinian criminal justice systems: Seeds of change in the context of state building? *Law and Society Review*, 606-577 ,3 ,36.



Legislative Council (PLC), but, none of them was endorsed and the Council members could not come to a consensus concerning the text; it has remained untouched ever since.<sup>41</sup> The delay in approving an all-Palestinian penal code was due to internal disputes regarding the various proposed penal codes, and external political and structural reasons including the detention of some of the PLC members, the constant political hazards, the paralyzes of PLC, and the low priority afforded to women and girl's accessibility to justice and protection from violence, and to gender-sensitive penal code.

For example, while according to the 2003 Draft Penal Law, Article 242, domestic violence is a crime that carries a punishment of two years' imprisonment, paragraph 3 of the Draft Penal Code mentions that legal action can be taken if the victim herself or a relative (up to the fourth degree for minors under age 15) files a complaint. The contradiction and lack of clarity in the law may be used against women.

### Specific laws

Jordanian Penal Code Article 292 Paragraph 1 of 1960: Reading this law (see Appendix A: Laws) identifies two main issues. The first is that the article states that rape is defined as non-consensual penetration of a female who is not the wife of the perpetrator. This means that the law does not recognize marital rape as a crime, and therefore does not protect wives from spousal rape. The second issue is that according to the law, any sexual attack without penetration is not considered rape. Such lesser acts, according to the penal code, merit milder punishment.

It is also important to note that the law does not include the rape of boys or men. According to His Excellency, Justice Farid Jallad, head of the Palestinian High Judiciary Council, the term "sexual assault" in Article 296(1) of the Jordanian penal code of 1960 draws on social and conceptual understandings of "honor."<sup>42</sup> Both Articles 292(1) and 296(1) classify unwanted sexual contact other than vaginal penetration as sexual assault, irrespective of its gravity or harm. Similarly to Article 292, Article 296(2) only prescribes a greater punishment for sexual assault when the victim is younger than age 15. It is worth noting that the terminology used in Article 296 provides that sexual assault is committed against persons, which means men and women. Although the narrow definition and wording used to define rape excludes men, the article on sexual assault does not.<sup>43</sup> In fact, the options that are suggested for a woman or a girl who was raped are the following: marrying the rapist (legally approved); marrying an older or disabled man; being incarcerated at home or in prison; or other methods that equally and effectively put the victim on the equivalent of "living while awaiting death" row.<sup>44, 45</sup>

The punishment is aggravated if the victim of the assault

is a child and the assault occurs within the family and is perpetrated by the person responsible for raising that child, a person having direct authority over the child, or by an ascendant relative. Ascendant refers specifically to the father and grandfather, which means that the aggravated punishment for sexual crimes cannot apply to brothers and uncles. As for adultery and incest crimes, both penal codes define adultery as occurring when two people have sex, of whom both or one is married, and incest as occurring when two people within the same family have sex, meaning one person is a legal or illegal descendent or ascendant, an in-law, or someone who has legal or actual authority over the victim. Both crimes are considered by law to be consensual crimes that happen with both parties' consent and responsibility. These crimes are dealt with as special cases whereby the complaint can only be filed by male relatives—a form of discrimination against women, who are considered incompetent to file complaints for such crimes.

Jordanian Law Article 308 of 1960: This article is called Article 308: Discontinuance and Resumption of the Prosecution. Article 308 of the Jordanian penal code states: "If a proper marriage is made between the offender who committed one of the crimes previously mentioned in this Chapter and the victim, the prosecution shall be ceased, and if a sentence was already made on this case, the implementation of the punishment in the sentence shall be put on hold." This also applies in Article 42 in the British penal code.<sup>46</sup> According to the law:

1. If a valid marriage is concluded between the perpetrator of one of the crimes provided in this Chapter and the victim, the prosecution shall be discontinued, and the execution of any sentence rendered against the perpetrator shall be stayed.
2. If the marriage ends with the divorce of the woman without a legitimate reason, the Prosecutor General may, before the lapse of three (3) years starting on the date of the commission of a misdemeanor, or five (5) years starting on the date of the commission of a crime, resume the prosecution of a case, and the execution of a sentence.

Such a law is rewarding for the perpetrator, and in most cases when the perpetrator agrees to marry the victim, she is under the pressure of accepting the rapist to be her husband. This law further ignores the feelings, trauma, and opinions of the women and girls when they are raped. In most of the incest cases, we found that the family exerts pressure on the female victim if she refuses to marry her rapist, thereby making her feel guilty.

Jordanian Penal Code No. 16 of 1960 (Articles 97, 98, 99, 340, and 285): Article 340 is written in heavily masculine language. According to this law:

1. A husband who surprises his wife or a close female relative in the act of adultery with another person, and kills, injures, or harms either of them, or both, shall benefit from a mitigating excuse.

46 Ibid.

41 Jallad Z. (2012). Palestinian women and security: A legal analysis. Geneva Center for the Democratic Control of Armed Forces, p. 6. Retrieved from <http://www.dcaf.ch/Publications/Palestinian-Women-and-Security-A-Legal-Analysis>.

42 Jallad 2012, p. 8

43 Jallad 2012, p. 8

44 Shalhoub-Kevorkian, N. (2003). Re-examining femicide: Breaking the silence and crossing "scientific" borders. *Signs*, 608-581 ,(2)28, p. 597.

45 Palestinian National Strategy (PNS) to Combat Violence Against Women 2011) .2019 – 2011)

2. The perpetrator of a killing or an injury shall benefit from a mitigating excuse if he surprises a spouse, ascendant, descendent, or sibling with another person in an unlawful bed.<sup>47</sup>

The law states clearly that the right to kill belongs to men, but not to women. It does not take into consideration the perspective of the wives who witness their husbands in the act of adultery with another woman, nor the fact that no one has the right to take the life of another. The law portrays women as people who have no feelings, or who must control their feelings, and who must be killed if they allegedly engage in relations outside the home. This argument places women under the control and hegemony of their husbands, fathers, or brothers who control these women's bodies and lives. This law was met with unanimous condemnation by human rights and women's rights organizations, who called for its immediate cancellation as a result of numerous women being killed under the pretext of "honor," even when there is no connection between "family honor" and the act of murder. The law thus grants impunity for individuals who kill women, which in turn leads to the killing of more women and girls as a result of its acceptance and even reverence in the family and society.

In May, 2011, PA President Mahmoud Abbas signed a presidential decree that removed Article 340 from the Jordanian Criminal Law applicable in the West Bank as well as Article 18 from the British Mandate Criminal Law, ostensibly ending the sanctioning of lenient and often meaningless sentences for acts of femicide. However, WCLAC notes that many lenient sentences are not issued under these articles, which relate specifically to crimes of passion, but rather are applied through articles that give significant discretion to judges to reduce sentences as they wish (e.g., Articles 98, 99, and 100 of the Jordanian Criminal Law).<sup>48</sup>

One of our findings was that a common scenario in which women are exposed to violence is when a husband decides to marry another woman, but his wife refuses to accept his decision. In 2011, the head of the Palestinian Shari'a Supreme Council canceled Article 28 of the Jordanian Personal Status Law, which had not required a man to inform his wife about his other marriages, stating that a "man has to inform his wife about his interest in taking another wife."<sup>49</sup>

This decision is not an official law; thus, men are able to choose whether they wish to abide by it. From the cases we studied, we found that several men had in fact violated the Councilman's ruling regarding marital transparency. It is important to note that the legal decision requires the man to inform his first wife about a second marriage, but does not require him to seek or obtain her acceptance of it. This allows the man to feel that he can marry another woman as he wishes, which has negative effects on the woman in regards to her relationship with her husband. Furthermore, he is not even obliged within this framework to provide or prove any condition for wedding

47 Selected provisions of this law pertaining to women can be found at the Corpus of Laws website: <http://corpus.learningpartnership.org/?s=article340+%&Submit.x=1088-&Submit.y=417-&Submit=Go>.

48 WCLAC 2011a.

49 Jallad, 2012.

a second wife, such as that he has the economic ability to provide shelter and food for the second wife. To the contrary, the second wife's arrival commonly adversely affects the economic security and status of the man's first wife and their children.

Another law that causes a strong sense of insecurity among Palestinian women is Article 38 of the Jordanian Personal Status Law.<sup>50</sup> According to the law, a man can divorce his wife in absentia; meaning that the male has a powerful monopoly over the relationship and can act without his wife's participation or even presence in marital decisions.

### The executive institutions

The work of the Palestinian police for the women's protection is restricted by various laws that determine how the police operate and how they can offer protection to women. By defining which family members have the right to file a complaint with the police and how to carry out police investigations, existing Palestinian laws limit the ability of the police to offer women full protection, especially when it comes to honor crimes. Moreover, despite the existence of the Family Protection Units (FPU), which were established in 2008 by the PA to protect women from violence, police departments in all governorates continue to lack the appropriate infrastructure and qualified staff needed to receive abused women. In addition, and as just noted (reporting from the FPU in 2013), the increase in the number of female victims/survivors, the insufficient number of staff working in these units,<sup>51</sup> and the need for further capacity development severely affects women's accessibility. In some cases, police officers who receive complaints from abused women encourage them not to press charges and to resolve the problem within the family instead.<sup>52</sup>

Judges, on the other hand, continue to use the abovementioned laws to address violence against women and girls, their criminalization and victimization. For example, there are no specialized courts or judges dedicated to working on VAW, and female victims/survivors prefer to remain silent about their cases instead of risking exposure due to the lack of confidentiality prevailing in the existing court system. In the PA system, it is the role of the prosecutor to deal with cases of various crimes, including VAW. However, women in shelters who were interviewed during the development of the Palestinian National Strategy to Combat Violence against Women 2011-2019 stated that prosecutors had humiliated and embarrassed them during the interrogation process. Moreover, reports of prosecutors are considered the most important pieces of evidence by judges and therefore affect the outcomes of the judicial process and the fate of women victims/survivors of violence.<sup>53</sup>

50 We will broaden the information about that Law when we talk about divorce cases later.

51 Palestinian Civil Police / Family Protection Unit Strategy, 2013. See note 28.

52 Amnesty International. (2005). *Conflict, occupation and patriarchy: Women carry the burden*. London: Amnesty International. Retrieved from Amnesty International website <http://www.amnesty.org/en/library/info/MDE2005/016/15/en>.

53 Palestinian National Strategy (PNS) to Combat Violence Against Women 2011) .2019 – 2011)

When delving into religious courts, we realize that three administrative orders passed by the Chief Justice of the Shari'a Court stipulate, firstly, that in inheritance cases, women should be informed of the value of their inheritance directly by a court official (ensuring that accurate information is given). Secondly, in cases of polygamy, it is a legal requirement that current wives are informed of any further marriage, and so that additional marriages cannot be hidden. Thirdly, a wife must be informed if she is being divorced at the moment that she is being divorced.<sup>54</sup>

Women's rights defenders argue that current Palestinian laws do not effectively prohibit or punish violence against women and girls. In fact, no law exists to protect Palestinian women and girls from violence in the home and the community. If certain laws do indirectly protect the rights of Palestinian women, then religious claims and cultural constraints, such as the focus on the preservation of male/family honor, patriarchal tribal practices, and a desire to hold onto "authentic" traditions interfere with their implementation, as does lack of an alternative path for women, such as qualitative services and tools of protection. A public opinion poll on the status of Palestinian women found that 77% of respondents (male and female) believed that more laws must be enacted to protect women from domestic violence. The same poll also revealed that 74% of the Palestinian population supports an amendment to the current law that allows for murder in the name of honor.<sup>55, 56</sup>

### Women's Access to Justice Observatory

The Women's Access to Justice Observatory has functioned since September 2012 within the Independent Commission for Human Rights (ICHR). The Observatory's main aim is to strengthen the monitoring mechanisms regarding women accessing justice in the Palestinian territory. The ICHR is the Palestinian National Human Rights Institution and has full membership in the International Coordinating Committee of National Human Rights Institutions of the United Nations.

The ICHR was established in 1993 upon a Presidential Decree issued by President Yasser Arafat, in his capacity as President of the State of Palestine and chairman of the Palestine Liberation Organization. In accordance with the decree, the duties and responsibilities of ICHR were set out as follows: "To follow-up and ensure that different Palestinian laws, by-laws and regulations, and the work of various departments, agencies and institutions of the State of Palestine and the Palestine Liberation Organization meet the requirements for safeguarding human rights." The decree directed the ICHR with to drafting its statutes in a manner that would ensure its independence and effectiveness.

Building on its institutional mandate, UN Women has supported ICHR in the establishment of a Judicial Observatory on VAW to monitor judicial processes and outcomes in cases of violence against women,

and to document any violation of women's rights due to discriminatory laws/procedures, discriminatory applications of laws/procedures, or gaps/dysfunctions within the judicial system. The ICHR-VAW Observatory's documentation system has been built consistently with and on the experience developed by key actors in the provision of security and protection services to women—especially specialized shelters and police units (FPUs)—so as to be able to produce a holistic picture of the situation of women female victims/survivors of violence who attempt to access the justice system. Within the framework of the new UNDP/UN Women Joint Program the ICHR-VAW Observatory's role is strengthened through expanding the number of cases monitored, also in the Gaza Strip, and through further empowering CSOs in their monitoring role to feed into the Observatory database.

### Social mechanisms for the protection of women

**Family and community protection mechanisms:** With the high rate of poverty and severe mobility hardships facing Palestinians in general and Palestinian women in particular, women in turn first to family and helpers from among the close-knit community. Even the act of seeking help from family and community may result in women's being blamed for being abused, but, and as demonstrated by the focus groups with college students in this study, family and community (such as family doctors, teachers, and nurses) intervention might also protect women, preserve their safety and security, and prevent the re-victimization that might occur if the women were to request the help of the tribal or formal justice systems.

**Informal protection mechanisms:** The tribal system plays an important role in the enforcement of order in Palestinian society. Tribal decisions often override official national laws, mainly in cases related to abuses inflicted upon women. The tribal system may criminalize and reject acts that are legal and permitted by national law. This informal mechanism for addressing cases of VAW is represented by the intervention of the extended family, the tribe, or the *hamula* (clan), depending on the type of violence perpetrated.<sup>57</sup>

**Women seeking services:** The baseline study for the project *Palestinian Women and Security: Why Palestinian Women and Girls Do Not Feel Secure*<sup>58</sup> asked Palestinian women and girls about their perceptions of the services available to them. Respondents overwhelmingly indicated that they felt unable to turn to these support services for assistance. The report further found that women and girls were either unaware of the support services available to them or, if they were aware, hesitated to use them due to fears of scandals and family humiliation. In some instances, women and girls did not trust core service providers for justice (i.e., the court system and the police), public services such as school counselors, hospital staff, or shelters, and the services offered by human rights and women's organizations. The legal system was also viewed as ineffective.

54 WCLAC, 2011a.

55[The footnote numbers should change now that 58# was deleted, but for some reason it won't allow me to delete]

56 Chaban, 2011.

57 Palestinian National Strategy (PNS) to Combat Violence Against Women 2011) .2019 – 2011)

58 Chaban, S., Daraghmeh, R. & Stettler, G. (2010). *Palestinian women and security: Why Palestinian women and girls do not feel secure*. Geneva: Geneva Center for the Democratic Control of Armed Forces (DCAF).



According to service providers, much of the current Palestinian legislation is insufficient to protect women and girls from abuse or to protect their human rights. Service providers from diverse professions recounted detailed stories highlighting the ways in which the women and girls they have worked with have not been properly protected within the current Palestinian legal system. Thus, turning to the police and other security and justice providers appears to be a very difficult decision for Palestinian women in the West Bank due to the lack of a clear legal framework in which the police could function for the women's benefit.<sup>59</sup>

The women's focus groups conducted during the development of the Palestinian National Strategy to Combat VAW (2010) found that when legal protection is unavailable and a woman has no trust in the judiciary system, she often turns to her family to solve the problem, embedding the idea that violence is a private issue to be handled outside of the legal and legislative systems.

In the 2011 reporting period, WCLAC provided legal and social counseling to 456 women. Forty-five of these were cases that were continued from the previous reporting period, and 411 were new clients from East Jerusalem, Ramallah, Hebron, and Bethlehem. Fifty-eight of the new clients were referred to WCLAC by a previous client, or were previous clients themselves. One hundred and six cases were brought from the courts, four from government bodies, and fifty from NGOs. There were also a further 382 one-off consultations for clients (Jerusalem: 131; Ramallah: 108; south of the West Bank: 143).<sup>60</sup>

Statistics from the Mehwar Center for Women's Protection indicate that the Center's Protection Department received 86 cases between 2007 and the end of 2008. In 2009, 50 cases were received from various locations throughout the West Bank, in addition to 12 children accompanying their mothers. Furthermore, from a UN Women study published in 2011, entitled *The Mehwar Center: Evaluation of Policies and Procedures*, and based on interviews with professionals working with women victims/survivors, it was apparent that there is a high incident rate of women and girls (age 12-18) victims/survivors of sexual and physical violence; when perpetrators are mostly male relatives.<sup>61</sup>

In addition, statistics from the Girls' Care Center indicate that 19 young female victims/survivors of domestic violence were received in 2009, while the PCBS survey of 2011 indicates that 51% of the surveyed children reported being exposed to parental psychological violence and 34.4% to parental physical violence. Defense for Children International (DCI) statistics reported that the organization offered counseling services to 24 female children exposed to domestic violence.<sup>62</sup>

The Violence Survey in Palestinian Society (2012),

conducted by the Palestinian Statistics Bureau, found that just 30.2% of women who were ever married and were victims/survivors of violence by their husbands have had recourse to the home of one of their brothers or sisters. Nearly two-thirds of spousal violence victims/survivors—65.3%—preferred to remain silent, while the rate of women who were exposed to violence and visited a women's institution or center for advice was less than 0.7%.<sup>63</sup>

The Sawa Center organized four gender-training workshops for prosecutors<sup>64</sup> in Ramallah, Nablus, Hebron, and Tulkarem. The participants stated that both men and women face various obstacles to accessing justice, including obstacles connected to:

*Social and cultural factors, such as:* A societal culture of shame, the patriarchal nature of the society, pressures from the family and the community, fear and worries for the daughters and families of women who seek justice

*Formal factors:* Discriminatory laws, fear of arbitrary divorce as there is no law that protects women from it, lack of specialist protection units, lack of specialist family judges, judges' patriarchal perceptions, negative perceptions toward the police, and lengthy trials

*Informal factors:* seeking tribal judgment, absence of organizations that support women in all geographic areas, lack of communication between the women and the organizations that are interested in helping women, and the lack of protection for women after their complaint is filed

*Individual resources:* Women lack both financial resources needed to move and cover legal expenses and legal knowledge about their rights and how the system works

This study describes how all of these obstacles, in addition to the ones already mentioned, structure and shape women's accessibility or inaccessibility to justice in the West Bank.

59 Chaban, 2011.

60 WCLAC, 2011b.

61 For more details, see UN Women. (2013). Policing for women's security and justice in the occupied Palestinian territory: A comprehensive background analysis, and Recommendations for strengthening the Palestinian Civil Police and Family Protection Unit. p. 18.

62 Palestinian National Strategy (PNS) to Combat Violence Against Women (2011). (2019 – 2011).

السلطة الوطنية الفلسطينية: جهاز الإحصاء المركزي للإحصاء الفلسطيني-مسمح العنف في 63 المجتمع الفلسطيني، 2011، تقرير النتائج الرئيسية

The Palestinian National Authority: Palestinian Central Bureau: violence survey in the Palestinian Society, 2011. Retrieved from [http://www.pcbs.gov.ps/Portals/\\_PCBS/Downloads/book1864.pdf](http://www.pcbs.gov.ps/Portals/_PCBS/Downloads/book1864.pdf).

64 Sawa Organization. (2011). Annual Report. Retrieved from Sawa's website [http://www.sawa.ps/Upload/documents/annualReport2011\\_en.pdf](http://www.sawa.ps/Upload/documents/annualReport2011_en.pdf).

# Methodology

In addition to the primary questions raised in the introduction, the study aimed to answer the following additional questions:

- What kind of legal protections are offered to women?
- Which NGOs and government organizations provide social, psychological, and legal services to women? How do they do so? How do women victims/survivors/survivors of abuse perceive and portray such services?
- How do representatives of the social and criminal justice system operate and behave? What kinds of bureaucracies are imposed? Are such modes of operation and bureaucracies gender-sensitive?
- How do representatives of social and political control interact? How do they structure women's access to justice?
- What are the unique characteristics of access to justice in Areas C, H1, and H2?
- What does it mean for police and judges to conduct investigations and support women's access to justice? How do they conduct such investigations and support in Area C, H1, and H2?
- What kinds of social and psychological protections are offered to female victims/survivors of abuse?
- What socio-legal knowledge do these women have? How does knowledge about these structures influence legal and social issues?
- How does socioeconomic background affect Palestinians' access to justice?
- How does the political background of areas, communities, or individuals affect women's access to justice?

In order to answer these questions, we applied a qualitative research methodology based on grounded theory approach and using phenomenology research strategy. According to Glaser and Strauss, grounded theory is "the discovery of theory from the data systematically obtained from the social research."<sup>65</sup> We used this approach because this is the first research study aiming to structure the processes of Palestinian women's accessibility or inaccessibility to justice. It is also the first research project that brings women's voices from various socio-legal spaces of the West Bank. Grounded theory is ideal for exploring integral social relationships and the behavior of groups where there has been little exploration of the contextual factors that affect individuals' lives.<sup>66</sup> This research is the first to describe the various relationships between the formal and informal legal systems, and the interrelationship between the legal, social, and political

aspects of women's lives through their journeys within the Palestinian justice system.

Our research is based on phenomenology, as interviews were the appropriate tools for this type of study. The purpose of the phenomenological approach is to highlight and identify the structure and the characteristics of a phenomenon by the actors who experience and live within it. This normally translates into gathering 'deep' information and perceptions through inductive, qualitative methods such as interviews, discussions, and participant observations, and representing an issue from the perspective of the research participant(s). Phenomenology is concerned with the study of experience from the perspective of the individual(s). This research is based on the experiences of the various actors in the legal system, focusing on women's experience, the NGOs' experience, and the legal workers' experience.

In order to bring a holistic picture of women's access to justice, we conducted our research through several levels and stages, which are based on the Grounded Theory strategy.<sup>67</sup> Charmaz<sup>68, 69</sup> identifies a number of features that all grounded theories have:

- Simultaneous collection and analysis of data
- Creation of analytic codes and categories developed from data and not by pre-existing conceptualizations (theoretical sensitivity)
- Discovery of basic social processes in the data
- Inductive construction of abstract categories
- Theoretical sampling to refine categories
- Writing analytical memos as the stage between coding and writing
- The integration of categories into a theoretical framework

To answer our research questions, we conducted semi-structured interviews. In these interviews, we went into the field with the main axes of the research, with three to four questions for each axis. Each of the interviewee's answers would open up new questions that expanded the interview.<sup>70</sup>

In addition to the interviews, we also conducted textual analyses of various documents that were relevant for our research. The analyzed texts included laws, media coverage of several cases, documents published by various NGOs on relevant issues, such as the 18 annual reports published by ICHR on the situation of human rights in the Palestinian Authority areas, and other annual reports of various NGOs.

Textual analyses are very important for the research, because through these analyses, we can acquire information that was not raised in the interviews. Textual analysis is a way for researchers to gather information about how other human beings make sense of the world.

67 Glaser, B.G. & Strauss, A.L. (1967). The discovery of grounded theory: Strategies for qualitative research. New York: Aldine de Gruyter, p. 2.

68 Charmaz, 1995 on [http://www.sagepub.com/upm-data/36848\\_birks.pdf](http://www.sagepub.com/upm-data/36848_birks.pdf).

69 See Charmaz, 2002 on [http://www.sagepub.com/upm-data/017586\\_9548ch1.pdf](http://www.sagepub.com/upm-data/017586_9548ch1.pdf).

70 See Appendix B for the semi-structured interviews with: women, legal system and NGO workers and women in the Area C focus groups.

65 Glaser, B.G. & Strauss, A.L. (1967). The discovery of grounded theory: Strategies for qualitative research. New York: Aldine de Gruyter, p. 2.

66 Crooks, DL. (2001). The importance of symbolic interaction in grounded theory research on women's health. *Health Care for Women International*, 22 27-11.

It is a methodology—a data-gathering process—for those researchers who want to understand the ways in which members of various cultures and subcultures make sense of who they are and of how they fit into the world in which they live. Textual analysis includes analyses of the discourse, meanings and attitudes written in the relevant texts, and it is useful for researchers working in cultural studies, media studies, in mass communication, sociology, and philosophy.<sup>71</sup>

## Stages of research

We conducted our research through the following stages.

### 1. “Reading and feeling” the field

In order to “read and feel” the field, we began by reading the collection of writings described in our theoretical background. We then conducted our interviews with various specialists from the field who had worked or currently work with women who interact with the legal system or agents of the Palestinian legal system. These specialists included:

- A consultant on policing and prosecutor strategy for handling cases of domestic violence at UN Women
- The executive director of the Palestinian Independent Commission for Human Rights (ICHR)
- Directors of local women’s organizations, including the Center for Women’s Studies in Nablus and Jerusalem and the Women’s Center for Legal Aid and Counseling in Hebron, Ramallah and Jerusalem.

### 2. Building the semi-structured interviews

From our “reading of the field,” we designed and prepared the semi-structured interviews. We distributed our core interview questions to the research team<sup>72</sup> for their review, received their feedback, and then wrote the final version of the interviews. We decided to interview the women first, as it was crucial for us to hear their experiences and their journeys within the legal system, in order to get a detailed picture that would help us prepare our questions for the NGOs and legal system agents. Furthermore, as this research is on Women’s Access to Justice, it must begin with women’s experiences.

### 3. Interviewing women—experiencing the field

The first step we took to begin our interviews with women, as an ethical step, was to write a letter through UN Women to the Palestinian general prosecutor asking for legal permission to enter the various institutes of the Palestinian Authority. We then wrote to various PA ministers requesting permission to access the various institutes under their ministries’ authority, including shelters, prisons, police stations, and courts. After receiving the permits to conduct our research, the

research team began interviewing women who had experience interacting with the Palestinian legal system.

### 4. Analyzing, re-reading the field, and producing basic analytical themes

In parallel to interviewing women, we held a meeting with the ICHR to share our initial findings and collect their data from the field. It was our first step in validating our readings with data in the field according to the women’s voices. We drew the basic processes, “maps,” and procedures to outline women’s access to, or denial of access to, justice.

### 5. Second round of interviews

Based on the results and themes we gathered from the women’s stories, we designed the next round of semi-structured interviews for workers at NGOs and institutes within the legal system. The draft interview questions were sent to specialists working in the legal system and in research methodology, returned with feedback and comments, and then finalized for the actual interviews.

### 6. Re-forming and re-structuring the data—new themes

After completing the interviews in stage 5, we read and analyzed the material and outlined new themes that emerged from each group of interviews: women, NGO workers, legal system institutes, and legal workers.

### 7. Focus groups

Our last round of interviews was conducted with 93 women living in various locations including Areas C, H1, and H2, and women who did not interact with the Palestinian legal system. These interviews were based on the semi-structured interviews prepared by the researchers of the study. There were 6 focus groups: 1 group consisted of students from Area C and areas close to it (21 participants); 1 group of students from the central region of Palestine who were studying in Ramallah while some of them lived in Area C (17 participants); 1 group of women from Areas H1 and H2 and the surrounding Area (28 participants); and 2 groups of workers in the welfare and formal social institutes of the Palestinian Authority (one of the groups consisted of 6 participants; the second, 11 participants). A final focus group that aimed at helping the researchers validate their analyses was conducted with 15 college women who crossed checkpoints, lived inside the West Bank, when about 6 of them commuted to their college from Area C.

### 8. Case studies

In addition to the female subjects, we interviewed various other actors such as lawyers, police officers, and prosecutors in different cases, without interviewing the women involved in the cases. Through these testimonies, we collected 10 additional case studies that had reached the Palestinian legal system. These cases provided more professional insight into the picture that our initial interviewees had described to us.

71 McKee, A. (2003). *Textual analysis: A beginner’s guide*. Thousand Oaks CA: Sage Publications.

72 The research team conducted the interviews with the various interviewees. They are familiar with interviewing as it is part of their profession, and they are familiar with the field as they interviewed women in the past for other research projects.

## The research groups



## Data and content analysis

In parallel to gathering the data from the field through the interviews, we conducted inductive content analysis of the interviews and documents we received. Content analysis included three main stages. The first stage was the open coding, through which the researcher wrote headings and notes while examining the research material. The written products were then read through

again, and as many headings as necessary were noted in the margins to describe all aspects of the content.<sup>73,74,75</sup> The researchers then generated categories into which to group their headings.<sup>76</sup>

In the second stage after this open coding, the lists of categories were grouped under broader headings<sup>77,78</sup> to reduce the number of similar categories and highlight the dissimilar ones.<sup>79,80,81</sup> The purpose of creating categories is to create a means of describing the phenomenon in the research and to increase understanding of the subject.<sup>82</sup> When formulating categories by inductive content analysis, the researcher comes to a decision as to which headings to put in the same category.<sup>83,84</sup>

In the third stage, we produced the main themes of analysis through categorization of the categories from the second stage.

## Validity and reliability of the research

As a methodological step for proving the validity, reliability, and stability of the results, we conducted two group meetings: one with the research team, and the other with the ICHR workers who had shared their data and information with us from the beginning of the study. The research team's meetings were joined by several specialists from the field: a manager of one of the shelters, a NGO worker, and two UN workers dealing with the Palestinian legal system. In these meetings, we presented our final themes of analysis and shared our findings. We received feedback and new information from these meetings and confirmed our findings, explanations, and interpretations.

The second way of ascertaining the validity and reliability of our research was our use of multiple methods of data collection. We used semi-structured interviews, focus group interviews, and textual analyses of relevant documents. This way, we were able to see if the same data emerged through the various methodological approaches and ensure that the researcher did not miss any important information.

The third way to verify the study's validity and reliability was to have experts review our work. After completing the research, we issued a draft of the final report to three

73 Burnard P. (1991). A method of analysing interview transcripts in qualitative research. *Nurse Education Today*, 466-461 ,11.

74 Burnard P. (1996). Teaching the analysis of textual data: An experiential approach. *Nurse Education Today*, 281-278 ,16.

75 Hsieh, H.F. & Shannon, S. (2005). Three approaches to qualitative content analysis. *Qualitative Health Research*, 1288-1277 ,15.

76 Burnard, 1991.

77 McCain, G.C. (1988). Content analysis: a method for studying clinical nursing problems. *Applied Nursing Research*, 150-146 ,(3)1.

78 Burnard, 1991.

79 Burnard, 1991.

80 Downe-Wamboldt B. (1992). Content analysis: Method, applications and issues. *Health Care for Women International*, 321-313 ,13.

81 Dey I. (1993). *Qualitative data analysis. A user-friendly guide for social scientists.* London: Routledge.

82 Cavanagh S. (1997). Content analysis: concepts, methods and applications. *Nurse Researcher*, 16-5 ,4.

83 See Elo, S. & Kyngäs, H. (2008). The qualitative content analysis process. *Journal of Advanced Nursing*, 115-107 ,(1)62.

84 Dey, 1993.



top professional experts from the field. These experts were:

- Project Manager, Women Human Rights, UN Women
- Gender Sensitivity Associate in the Palestinian legal system
- Social Worker for women who approach the legal system

The various reviewers accepted our discourse and thematic analyses. They gave us comments based on their experience and knowledge from the field and confirmed the accuracy of our data, findings, and conclusions.

In the next section, we present the findings of the research. These findings are the main themes that emerged after the open and the axial coding.

## Findings (Focus Groups and Individual Interviews)

### **Nuha, 25, living in one of the geographically restricted areas examined in this study (Area C, H1, or H2):**

*I suffered my entire life from my father's violence, and I tried in so many ways to prevent his abuse. I asked the help of my aunt and uncle, I talked to my doctor, then told my teachers. Then one day, he opened the door, and without provocation, started beating my mother and me. So I ran away at the age of 14. Being a runaway girl turned me into an ill-reputed woman, with no 'sharaf' (honor), and my only way out was to accept a marriage proposal. If I can only tell you how many people I saw, how many I shared my story of abuse with, and nothing changed the situation. When the police finally managed to call him for an investigation, he ran away to Israel. Since then, and although I am a married woman with children, I live my life with so many constraints. I can't move out of this area. I'm living in this prison under constant violence, threats, fears, and health problems.<sup>85</sup>*

### **Salwa, 19, college student:**

*I was very young when I learned that if a young girl does not have supporters, she could end up as a dead body and no one would care. I was 7 when my own sister was killed by a stranger, total stranger; but the family feared she did something wrong (she was 14 when she was killed), and decided to tell everyone that she was hit by a car. But I knew she was killed, and I feared for my life. I told my doctor that I wake up in the middle of the night sweating, screaming, crying, and missing my sister, but he did not seem to care. I also told my favorite teacher, and she asked me to be careful, study well, and be a good and obedient girl. I wanted to be a good girl, so I agreed to marry someone my family chose. My husband is kind, so he agreed to allow me to finish school, and study to help him economically. His family bothers me a lot because I go to college, but he is my supporter, otherwise I would be in trouble. Justice for me is reaching my university without fear, without facing tear gas. Accessing my college freely is a just right, isn't it? And I feel my sister was killed and no one was punished, and I am being threatened on my way to my college and the abusers are also not punished. I guess justice is a relative concept. As a woman, you know you will never be treated in a just manner; as a Palestinian, you know you are not treated in a just manner. Maybe you need to conduct your studies in a different place. Here, we do not think about justice.... We think about coping as much as we can.<sup>86</sup>*

<sup>85</sup> Focus group meeting.

<sup>86</sup> Focus group meeting.

### Ala'a, 21, college student:

*I am 21 years old, and I can tell you, as the wife of a political prisoner, I have no access to justice; not in the Palestinian system and for sure not in the Israeli one. My story is long, but to cut it short, my husband ended up in prison for his politicization 8 months after we got married, and I haven't seen him for over two years...now I am back to studying. When you said that you study women's access to justice, I wanted to tell you that as a young wife of a political prisoner, my access to justice is hindered. I can't even visit him, and I feel this is total injustice.<sup>87</sup>*

### Naela, 27, worker at one of the justice institutions:

*I am considered an educated woman, a woman who managed to graduate with a law degree and become economically independent. When you asked me about women's access to justice, my first inclination was to tell you, "Are you joking? What justice?" Who can talk about justice in the context of occupation, when legislators and political leaders are dominated and humiliated? When laws are not clear, when the applicability of the same law differs from one place to another, when appointments of police officers, prosecutors, or judges are political, and when external donors control those claiming to work for women's rights. How could women access the justice system, when justice does not exist, and the community – including we women – can't trust those working in the justice system?<sup>88</sup>*

### Marwa, 20, college student:

*If the society believes in sutra (covering up), how can a woman disclose her abuse? How can we trust the system? The system is comprised of members of our society who prefer to silence women's issues and yusturuha (keep it undisclosed, concealed or hidden). This is why I tell my girlfriends to fight alone for their rights and not through the legal system or the police, for then they will lose their safety entirely.<sup>89</sup>*

As the above testimonies show, our general findings suggest that Palestinian women's accessibility to justice in the West Bank is subjected to various gendered political, structural, social, economic, and legal factors. The political and structural factors permeate throughout all the results, mainly because they form the gender asymmetries, affect the workings of power, and perpetuate the violation of women's access to justice in the context of the West Bank as a conflict-ridden area. In addition, the economic and spatial factors were found to impede women's and girls' access to justice. The following results expand and explain the juxtaposition between the political and structural, on one side, and the socio-legal, on the other.

This section presents the main findings in three sections:

1. **Paths to Justice:** This section shows the various paths women undertake to access the Palestinian legal system and institutions of justice.

2. **Women facing injustice, blame and attacks within the criminal justice system:** This section describes what happens to the women and girls on each stage of their path.
3. **Main themes of analysis:** This section presents main themes as inferred from the facts and experiences described in the first and second sections.

## I. Paths to justice

One clear result of this study is that ALL women survivors/victims interviewed believe that, in most cases and under the current socio-legal and political conditions in the West Bank, it is safer for females of all ages to live a life of violence and to accept the fact that there is no justice under such a context than it is to disclose the abuse inflicted against them. Ghada, 24, explained:

*I am not considered human, and even if I try to speak, share my pain, and ask for help, no one will hear my real voice or understand my pain. I was raped when I was very small, and when I asked for my mother's help, she did not know what to do. She did not have money to take me and run away, and her family live in Jordan (...) My mother wanted so much to help me, she even tried to burn herself to prevent him from touching me, but, we are suffocated here, and if my mother asks for the help of someone from the neighborhoods, he might also hurt her. Hebron is a trap, and women can't even move. They fear the settlers around us, and they fear society's reaction (...) This is why my mother kept silent. I spoke, I screamed, I reported (...) but I paid such a high price – a price that is higher than silence itself. My mother was right.<sup>90</sup>*

The spatial and economic confinement added to the political violence surrounding the spaces and lives of Palestinian women and girls, added to the bodily harm inflicted on their physical bodies and psyches is, as Ghada stated, "beyond imagination." The limited mobility, the lack of economic means, and the daily attacks on the residential areas were found to hinder any effort even to search for a path for justice. It was apparent, that only in cases where women could not handle the abuse anymore, that they called for help, and looked for modes to access justice. As Maysam, a woman in her early 20s who accompanied Ghada, told us during the interview:

*This is not only the case of Hebron, for I live far away from here, and I could tell you that today, under such harsh living conditions, people are barely managing to help themselves. Do you think they can handle dealing with sexual abuse? If Ghada was not my cousin, I would have never involved myself, and even now I am afraid. I am not afraid to be killed, for I have the best supportive brother ever, but rather afraid to complicate Ghada's injury. Her wound is very deep, and we are a wounded society and can't deal with pain any more.<sup>91</sup>*

Maysam's acknowledgment of her cousin's pain and her knowledge as a student of social work for the need to be with her cousin at such trying time did not prevent

87 Focus group meeting.

88 Focus group meeting.

89 Focus group meeting.

90 Focus group meeting.

91 Focus group meeting.



her from explaining the complexity of getting involved in any call for help—be it social, legal, or both. Her analyses juxtaposed her cousin's trauma against her people's collective economic, political, and social trauma. Despite her support for Ghada to come and discuss her abuse with a women's organization she had learned about in college, Maysam remained unconvinced that there are paths for justice under the current conditions in which Palestinians live. The interview with Ghada and Maysam was reflected in most of the interviews with other professionals, who painted a picture of a very complex situation whereby they believed in the need to open new spaces for women to access justice but were also acutely aware of the structural and political restrictions that meant that seeking help might bring further harm to the already traumatized victim.

These voices, and others analyzed in this study, indicate that females take various paths when trying to access justice in the formal and informal Palestinian systems. These paths include appealing to powerful family members, such as fathers, brothers, and male cousins, as well as to community members, such as health professionals, teachers, religious figures, or distant male cousins. When females decide that familial and informal community agents of social control have failed to help, they disclose their abuse to more formal social control agents. Our interviews show that, under both circumstances, females suffer when disclosing their abuses due to the social, legal, political, and economic situation.

To gain a deeper understanding of the ways in which Palestinian females in the West Bank access justice, we will first look closely at cases involving violence against women (VAW) both inside and outside the family. We will then move to analyzing cases involving femicide—and explore how and when the victims/survivors called for help and tried to access the formal or informal justice system. We will then consider cases involving sexual abuse. Finally, we conclude with cases combining multiple crimes against women.<sup>92</sup>

### A. Paths to justice in general VAW cases<sup>93</sup>

Marwa 31 year old, an interviewee, recounts her story:

*I wanted to study, but my father forced me to get married. I was 16, and he [her husband] was 18, and he was a worker. After one year of marriage, our families began to have problems with each other. My family wanted me to leave my husband but I did not want to, because I had a baby. I was living with my father – and mother-in-law and two brothers-in-law; we had problems all the time. My brother and father used to come to our home and beat me. They wanted me to leave my husband, and I told them that I would not leave my children. From the other side, my husband's family would come and do the same thing; they wanted me to leave the house. I was a victim of these two families. My husband beat me a lot, but I was quiet; what could I do? Who could I talk to? He beat my children too, and once he beat my child so much that my child had to go to the hospital.<sup>94</sup>*

92 You can see examples of these paths in Index No. 3 (Paths in Justice).

93 Here we refer to cases of violence against women while excluding sexual abuse and femicide, which will be discussed separately to allow us to elaborate on their unique characteristics.

94 Focus group meeting.

Marwa's case is only one example of many women who were abused by their own family members, their husbands, and their husbands' families, and were thus trapped in a life of violence from all sides. In addition to having to deal with internal family conflicts that left the women in a very vulnerable state, women who participated in our focus groups explained that achieving justice in their circumstances is extremely difficult, particularly as young girls, and even when their families try to help. Maha, 24, another interviewee, stated:

*My sister was attacked by her employer. Even though my father wanted to help--and he really tried and sought the help of the governor of Jenin--he did not succeed. Her employer is from Israel, and he ran away and did not give her the money back, nor did he pay her compensation. She was injured at work, but he ran away, and we do not know the law in Israel. My parents paid for a lawyer to help her, but even he could not give my sister her rights (...) Here in Jenin, women can never access justice, and to be honest, I think that the system might have worked better if the injured person was a man and not a woman.<sup>95</sup>*

In cases of internal family violence when the victims/survivors are females and other kinds of abuse such as employer abuse (as shared by Maha) or medical maltreatment (as shared by two focus group members), respondents made it clear that while family support is very important, it does not suffice to help women gain an adequate remedy from the justice system, whether the formal one or the informal one.

The narratives collected in this study indicate that when women seek help or enter the Palestinian justice system, they are either denied the right to access the system at all or it fails to meet their needs. As to the women in the former category, many observed that economic hardships such as poverty and severe economic hardship blocked them from even reaching out for help or following up with the social welfare or police. These women insisted that their own and their family's severe economic hardship prevented them from seeking help at all. Young female victims/survivors and almost half of the women interviewed (25 interviewees) stated that lack of knowledge of their legal rights resulted in their being victims of the existing "structure." Some explained that they addressed one or more civil society organizations before asking their families for help, and the mere sharing of their abuse in public, disclosing it to the police, or confiding in a community leader (mainly political or religious leaders) exacerbated their hardship. In some cases discussed in the focus groups, even for females who received family support, the plurality of the legal system and the political restrictions facing women blocked them from accessing justice. As in the case of Maha's sister, described above, women and their helpers could not protect women's right to justice due to geographic and legal factors, such as the fact that the abuser escaped to Israel, which is difficult for most Palestinians from the West Bank to enter due to the permit system, checkpoints, and closures. The same applies to females whose abusers fled to Israeli-controlled areas of the West Bank, that such as Area C or H2 – their right to access justice was often denied. Such in-access was also revealed in cases

95 Interview with Maha, Focus group meeting.

of young girls being married to men who hold Israeli IDs revealed how their husbands and or abusers deprived them from their children, from their right to economic support and from bodily safety and psychological welfare.

Furthermore, women became victims/survivors of abuse not only due to external political-economic factors or from their own families but also from their community, the welfare or health services, or the criminal justice system. One young woman, Angham, explained that after being abused by her brother, she asked the help of a male cousin, who exploited her vulnerability as a young girl in dire need of his assistance and started blackmailing her.

*He was first asking for favors, such as to bring food when I went to visit him, but it ended up in him touching me, kissing me, and more. When I tried to tell my mother that I did not need his help anymore and that he was trying to use me, she started hitting me, cursing me, and blaming me for being abused.<sup>96</sup>*

As we probed deeper into understanding the paths that Palestinian women use to access justice in the West Bank, for example by analyzing legal files and juxtaposing them against interviewees' narratives, we found that the situation is indeed dire. Our data reveal that after females try all possible internal (family and community) ways to stop violent abuse and realize that they cannot prevent it by themselves, they approach the police. The police then take the case to a prosecutor, who investigates further and decides whether to bring the case to court. The fact that numerous social control agents are involved and that they are the ones who decide whether the case should be tried by the Shari'a court, the civil court, or in some cases, the national security courts increases women's sense of helplessness. Samar, 33 years old, explains:

*The fact that they decide upon my life made me so depressed, I even tried to commit suicide 3 times. [My husband] kidnapped me with the help of his brother, and all of them – the police, the court, even my family – wanted to go to the Shari'a court and impose a marriage on me. He did not touch me, but he wanted to teach my brother a lesson because my brother was hitting on his sister while she was in school. They forced him and me to get married (...) And after marriage, he abandoned me, left me like an injured animal, and even on the day of Eid [a major Muslim holiday], he gave me 50 shekels without even looking at my face. They all did this to me, all of them; my parents, the judge in the Shari'a court, the police, the social worker (...) all of them.<sup>97</sup>*

Samar's narrative shows how various players suggested "solutions" to serious crimes without consulting, listening to, or even acknowledging the ramifications of their "solutions" on the female victim. For example, in the courts, the judges determine the mode of handling and following up on a case, including the amount of alimony and child support required. At this stage, following the disclosure of a familial conflict and/or abuse, we found that women often have problems receiving their rights in terms of alimony, child custody, and the like from their husbands. Women stated that the legal system fails to attend to their needs or acknowledge their suffering, let alone their legal and religious rights.

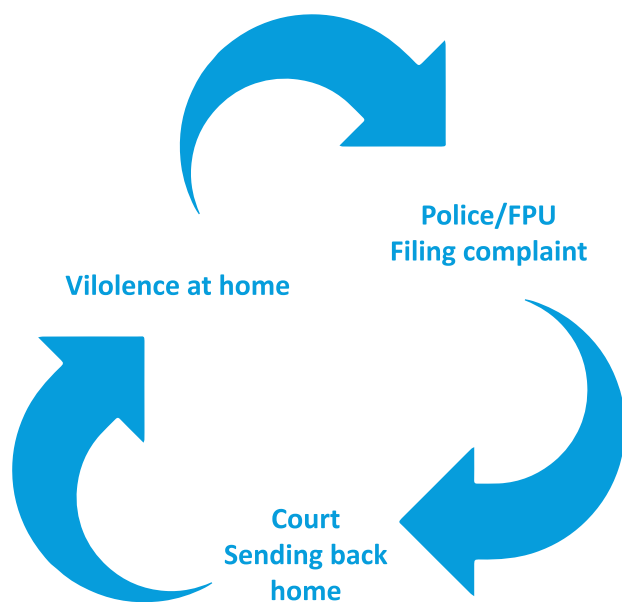
It is important to mention here, in regard to the courts, that women who are victims/survivors of spousal violence must move back and forth between the Shari'a court and the civil court, because many women have files in both places, one for divorce (or another personal status matter) in a Shari'a/church court and one on violence perpetrated against them in a civil court. Women must approach the executive courts in order to implement the Shari'a court's decisions. Women sometimes can't move easily between both courts, both because they don't have money or child care that could accommodate these continuous moves and because of the existing checkpoints, closures, and sometimes curfews that block their freedom of movement.

Interviewees explained that they were forced to re-enter the justice system many times in order to request their rights from their husbands or abusers. In more than 90% of the cases in the study, there were various interventions for reconciliation between the victim and the offender. In the Shari'a courts, these interventions are undertaken by committees established to achieve reconciliation. Marwa, 34, explains:

*I called the number that the Ministry of Social Affairs gave me. Police came to our home and took me, and on the second day we went to the court (...) The judge asked my husband if he beats me, and he said no. Then the judge told us to go and reconcile, saying it is a shame what we are doing, that we are grown up people (...) I went back to my husband, but I was afraid, he became worse (...) Then, the Ministry sent me to the shelter.<sup>98</sup> I filed a complaint against him, and he was in prison for three days. There was again a court session, the same thing happened as before, and I went back with him again. Now everything is worse than before.<sup>99</sup>*

In Marwa's case, we can see that the path to justice is a spiralone:<sup>100</sup>

Figure 6: Spiral path to justice



98 We do not mention the names of the shelters for research ethical issues.

99 Interview with M., married with 7 children.

100 The meaning of the spiral is that the woman is entering an open-ended path through which she returns to the same stations again and again.

96 Interview in March, 2013.

97 Interview in March, 2013.

According to several lawyers we interviewed, the governor sometimes intervenes in this spiral path to justice and decides what to do with the case, without the involvement of an official institute and without the case reaching a court or a prosecutor. They mentioned that the governor has the authority to send women to a shelter or “safe house” or to prison—even without a court decision.

*My family came to the safe house to take us, and I told my two brothers that we ran away because of the conditions at home. We went home (...) my brothers had a gun. I was afraid to tell them what happened to me, because when they knew about my sister, they pointed the gun at our heads and threatened us. We spent a week at their homes, but their wives didn't approve of our stay, so they put us in a separate room made from iron between their buildings. The floor was made of wood, there were no windows for sunlight, no bathroom, and every three days they brought us a scant amount of poor quality food. I managed to escape and went to the worker from the Social Affairs Unit who had helped us in the beginning. He then talked to my brothers, and I went back home with them. They locked us in the room and nearly beat us to death. We spent nine months with my brothers, until the governor came with the prosecutor and 15 police cars, closed the area and took us in the ambulance; my brothers were in Israel that day.<sup>101</sup>*

### **Violence at home Police → Family Protection Unit Prosecutor → Court → Family refusal and threats**

Some of the women we interviewed are still at the shelters. Others who have left the shelters now live in very insecure conditions, unsafe, and facing constant threats to their lives. It was apparent that seeking the help of the formal system produced new kinds of pressures and dangers to women's lives, particularly to younger and unmarried women and girls. The many examples shared in the focus group discussions revealed that disclosure of abuse to external parties, if not carefully thought out and planned, might cause further harm to women. The focus group discussions allowed us to learn that when family members or powerful players in society such as health workers, teachers, or male supporters join the effort to stop abusing women, the disclosure of abuse was found to be helpful. But in those cases (which, as the groups explained, was most cases) where women have no support or are not protected by a social group, their safety and their lives would often be in jeopardy.

It was surprising that the young college women in the focus group were able to map, deconstruct, and discuss societal reactions in detail while sharing stories of women victims/survivors and deviant and criminal men and women. They pointed out that disclosure of victimization is very challenging for women, and therefore they thought that women should first seek ways to access justice inside their communities. Only if that failed, and with carefully planned steps, should they seek the help of external agencies. They also described the dangers and the opportunities offered by text messaging, Facebook, and the internet. They shared many stories of young women who used Facebook to call for help when they needed it. Siwar, 19, for example, told the group that her cousin

text-messaged her sister-in-law when her teacher tried to threaten her, while Dima, 21, explained that when her brother took her salary, she posted the information on Facebook, and that was the last time he took her money.

Similar stories were raised in the focus groups, but it was apparent that, although participants agreed that using Facebook and the internet can be of great help, they the reverse could also hold true: nefarious/malicious characters can seek out vulnerable young women on Facebook and manage to lead them into prostitution and delinquency, endangering their lives. Shockingly, the college-aged participants explained that the most vulnerable groups are girls as young as 9 or 10, who can easily become victims/survivors of psychological, physical, and sexual abuse. The students explained that this segment of society is very fragile, unaware of the dangers of these resources, and at high risk of abuse. Girls' access to justice in these cases was found to be very shaky due to the failure of parents, teachers, police officers, and even judges to protect them. They stressed that girls, like abused women, tend to call for help from their social groups; the problem is whether such internal community and family resources are aware of these young girls' vulnerability. The focus group's results showed that the general societal tendency (of parents, mothers, teachers, doctors, and peers) is to blame women and girls for these scenarios, rather than question the community's failure and ability to attend to their needs.

The data that we collected from women who suffered abuse supports the analyses of the college students in the focus groups. It shows that women who suffer from violence by fathers, brothers, uncles and male cousins tend to deal with their violence internally, by asking for help from close family members, including mothers and cousins. Only when all other options have failed and violence poses a serious risk to their lives do they ask for help from the police, including its Family Protection Units and social welfare departments. The case of Nahla, 27, exemplifies this:

*I was engaged when I was 20 under pressure from my family. I was originally in love with a man who was rejected by my family. They threatened me with a knife and said if I married him, they would kill me. I was forcefully engaged to the man of their choice, and we got married. During the first two months he was nice, but after that he began causing problems for me with small things. He prevented me from visiting my family alone and began accusing me of cheating on him. Once he took me to my family by pulling me from my hair; he hit me in the street, the police saw us, and I told them that he was my husband. I went to my family, but my family sent me back to him. He locked me at home, called my father and told him that I had stolen gold from him. My father shouted back at him, saying that his daughter is not a thief, and he came with my uncles and took me from my home. I left home, empty-handed, with only the clothes I was wearing. I then submitted a complaint for my legal expenses. I deserve it, but I still haven't received anything. When I wanted to submit a request for divorce, my family didn't want me to do so. They claimed that I would lose everything, and they asked me to solve the problem tribally. I didn't agree, so I talked to a lawyer, but nothing has happened till now because the lawyer is sick.<sup>102</sup>*

101 Interview in February, 2013.

102 Interview in February, 2013.



As Nahla's case shows, we found that women and girls victims/survivors of violence primarily look for help inside the family, such as parents or cousins. Some families help their members and even connect them with lawyers and legal experts to help them fulfill their rights. In most cases, however, due to the lengthy process, financial expenses, and uncertainty of the end results, added to the fact that family supporters fail to expedite the formal legal process, the families tend to abandon the pursuit of formal justice, leaving women in a precarious state.

It must be noted that young women participating in the focus groups shared cases of women relatives who got tangled in the justice system without knowing how to get out of it. At least seven cases were mentioned among the three focus groups where women victims/survivors and their families grew extremely weary of dealing with one office after another. Riham, 20, explained:

*My uncle went to the police to file a complaint against his son-in-law, but the police needed medical proof that my uncle's daughter was burned [her husband poured hot water on her body]. When my uncle brought the report, they still asked for witnesses to testify that the husband was the one that burned her. When he asked the neighbor to testify that the husband was screaming and throwing things when his daughter was burned, they still did not act, arrest, or even file a complaint against the husband. Only then we learned that the husband's friend is a police officer, and there was no way my uncle could make the police arrest him...and this is why he ended up stabbing him.<sup>103</sup>*

Other victims/survivors' stories, as well as interviews with various institutional representatives, highlighted the need for evidence, testimonies, medical reports, technical reports, and other documents to initiate a suitable justice process. As one social worker stated: "By the time the system realizes that a woman's rights were violated, the women and their families lose hope and end up committing crimes, such as in one case where two sisters killed their brother-in-law."<sup>104</sup>

Police bias due to an officer's being related to the abuser is not uncommon. As Maram explained: "When [my brother] and my father are well connected, and they know everybody in the security apparatus, who am I to challenge them?"<sup>105</sup> The data indicate that a "personal connection" with the security and political apparatus, added to the lack of belief in the system's integrity, the lengthy legal process, and the inability of the criminal justice system to move faster due to procedural and political hardships (such as needing Israel's approval to arrest someone or collect evidence), resulted in women becoming very distrustful of the justice system in general.

## B. Paths to justice in cases involving the threat of killing

This path regarding the threat of killing includes several scenarios, such as the following:

<sup>103</sup> Interview in May, 2013.

<sup>104</sup> Interview in March, 2013.

<sup>105</sup> Interview in February, 2013.

### Threat of killing → Police and its FPU → Prosecutor → Shelter<sup>106</sup>

In 90% of the cases interviewed, collected, and analyzed for this study, the main source of the threat was within the family. The reason a woman was threatened with being killed was often one of the following: She was involved in a relationship that the family rejected; she was in a dispute with the husband or ex-husband; or she rejected the family's plan for an imposed marriage. The threat that she would be killed could be issued by the husband or one of her family members, such as the father, a brother, or an uncle. In our interviews, we heard from various agents of social control that these women stay at the FPU (Family Protection Unit) or sometimes other police unit/department<sup>107</sup> until they are transferred to the office of the prosecutor for investigation.<sup>108</sup>

### Threat of killing FPU → Police Return home Threat of killing → attempt to kill FPU → Police → Shelter

In these cases, the spiral path is part of the process. According to our interviewees from the formal and the informal institutions, women are forced to stay at the shelter until the threat has passed, or they are killed upon their return to the family or soon after their release from the shelter. In three of the interviews conducted with helpers, we learned that over the past three years, two women were killed following their release from a shelter. We could not validate this number, mainly because through the interviews, each case carried various conflicting narratives. The fact that it was not even possible to validate the exact number of women killed following release from shelters, prisons, or other safe homes is indicative of severe systemic problems and requires further scrutiny.

In only a very few cases were the victims/survivors able to lead independent lives after they had left the shelter. Women and girls who had sought the aid of the police were usually returned to their homes when one of their relatives or those responsible for their security (father, brother, or husband) signed a commitment not to strike or harm them. In most of the cases after the victim returned to her family, she continued to be subjected to violence and to live under the threat of death. In some cases, the women were indeed killed. In one story of a murdered woman in Bethlehem, as told to us by her lawyer and the Family Protection Unit (FPU) officer, the woman's husband regularly beat and threatened to kill her. She filed a complaint with the police; she tried every avenue possible – the social welfare department, her friends, her family, a center for psychological counseling, added to the police stations in various locations, and the husband was brought to the prosecutor's office, where he signed a commitment not to hurt or threaten her. The next day, he killed her in the market in front of an entire crowd.

In another case, two sisters were killed directly after

<sup>106</sup> There are three shelters in the West Bank: in Nablus, in Bethlehem, and in Jericho.

<sup>107</sup> We will describe this stage later when we expand our descriptions of each station on the various paths.

<sup>108</sup> According to Palestinian law, the prosecutor is the only person responsible for investigations. The police unit or the FPU is responsible for taking women's testimony and assisting her in filing a complaint if she wishes to do so.

their release on bail from prison, and the judicial system failed to evaluate their security situation. The sisters were released after five years in a women's prison for killing one of their husbands after he had tried to rape the other sister. According to various interviewees, the institutions involved in the case knew that the sisters' lives were in danger outside the prison, but did not act. In addition to the failure of the previous systems to protect them, the court – namely the judge – approved the women's release without calling for any precautions and without asking the police to conduct a risk assessment, despite the existence of evidence of an imminent threat on their lives. It should also be stated here that the FPU, as a body trained in risk assessment, could have aided the court, if only the judge had taken the necessary steps to ensure the women's safety and accessibility to justice. We could further argue that in this instance, the two sisters were killed due to the court's negligence and unprofessional legal work.

College women in the focus groups expressed great concern about women's conditions when cases of femicide were discussed. Salwa explained: "Just look at the two women who were killed: It was the judge who did not protect them. How can we ever trust the legal system, especially the judges?"<sup>109</sup> In all the focus groups, college students explained that the leniency towards perpetrators and the criminal justice system's lack of willingness to act firmly and swiftly leaves the lives of women at the mercy of men. Afaf explained:

*If my aunt can't receive her child support because she is afraid to request it, fearing [her husband] will kill her, how can I trust any justice system? When I told my aunt to go to court against him, she explained to me that he is well connected with various officials in the Palestinian Authority (PA), and he could easily kill her and claim she provoked him or something similar. The PA won't investigate, they won't even bother, but rather would support him simply because he is a man.*<sup>110</sup>

In one of the focus groups, Nahla said: "If you check each and every case of women that were killed as 'honor crimes,' you will realize that they were all abused as young girls, continued to suffer as women, and ended up paying with their lives for the injustice they faced."<sup>111</sup> All the group participants concurred.

### C. Paths to justice in cases of rape and/or sexual-bodily assault

Although most of the young college-aged women and other female interviewees revealed that family support was crucial for helping women, they also pointed out the dangers of conditional support. The data revealed that some family members who came to help ended up exploiting abused women or using their vulnerability and weak conditions to impose sexual relationships. Such is the story of Salwa, 25, who used to be beaten by her father and older brother. Her male cousin began to express warm and sympathetic feelings towards her, and she confided in him as an escape from her abusers.

He promised to marry her and convinced her to engage in a sexual relationship with him. When Salwa became pregnant, he left her and did not admit to his act, so she was forced to deal with the stigma and consequences from her family and society. Although, for example, Salwa's youngest brother helped her reach a doctor and paid for her abortion, he never trusted her, controlled her behavior, and deprived her of any liberty or financial resources. She explained:

*It is true that he fed me and kept me safe with his wife and children, but he also prevented me from looking for a job, going out to pick olives like all the girls in the village, or even thinking of going back to school. I became his kid's babysitter, when I am only 23 years old and can have my own life.*<sup>112</sup>

In five cases, young women being abused by their families escaped with a stranger who promised them help, love, and marriage in order to save them from their pain. After the promise of marriage, the woman would feel safe, start to hope, and begin a sexual relationship with the person. This later leaves the woman in a very dangerous situation, whereby the partner can leave her and she has to cope with the societal response—including threats on her life—on her own.<sup>113</sup>

Manal was 16 when her mother died. With her mother's loss, she also lost love, safety, and support:

*My mother died when I was 16. As a child, I lived a very agonizing and torturous life. My life was all violence and humiliation. My family refused to allow us to study and get an education, and they had a whole list of prohibitions; no television, no mobile phone, no visits to my aunt or uncle, no talking to our cousins (...) We were treated in a very bad way, and we worked like men. My sister and I decided to look for and meet men in order to get married and escape the torturous life we lived. I first knew a man that I would talk to on a secret mobile phone, but it didn't work out. Then I knew a man through a friend of mine, and we were in relationship for two months. He told me that he wanted to introduce me to his mother, so we went to his home, but no one was there. He asked me to have sex with him, and I agreed because I wasn't aware of what it would mean for my body, and he photographed me. I was afraid that my family would see the pictures, but it took me a long time to tell the police, and so my complaint was deemed irrelevant. My sister also slept with men and had dangerous results, so we decided to escape from the village together in order to save ourselves from being killed.*<sup>114</sup>

We argue here that, like Manal's case, young girls who lost their loved ones, suffered from a family trauma, and have no financial means to support themselves, continue their education, or build a safe future might end up being victims/survivors of an abuse of power. The search for escape with other men can be explained in several ways, including a search for ways to stop the abuses inflicted upon them by their families. Abused females seek safety, a dignified life, love, and emotional relationships to compensate for the lack of love and care in their own

109 Interview in February, 2013.

110 Interview in March, 2013.

111 Focus group meeting.

112 Focus group meeting.

113 We will elaborate on this path later.

114 Interview in February, 2013.

homes. Some might use their attempted escape as a way to punish their male relatives who abused them, to the degree that they would even get involved with socially unacceptable behaviors, including sexual relationships with strangers. Others wanted to challenge their abuser's authority, patriarchy, and ability to control women's lives. Five of the women and girls interviewed for this study gave explanations such as these.

Thus, women abused by their families try their best to adhere to their family's rules and to use internal family resources to address abuse. Only after all internal attempts fail do women seek help outside the family, such as by requesting intervention by the police or the Social Affairs Unit. In most of the cases, however, the circle of violence did not stop, and every time women survivors asked for additional help, they paid a high price and suffered additional harassments, abuses, and violence, including sexual abuse. In most of the interviews done for this study, it was apparent that females turn to their schoolteachers, doctors, and members of their immediate community, such as neighbors and relatives beyond the nuclear family. Yet, as indicated in the study, the response is all too often either apathy, fear, or ignorance about avenues for redress, which impedes females' access to justice.

The crime of sexual abuse was found to further hinder the already impossible access to justice for women. One member of the focus group explained:

*In a case in Birzeit, the disclosure of sexual abuse ended up stigmatizing the young girl. Her mother supported her and found her to be a victim of rape, but the entire society, even with posts on Facebook, blamed her for being abused and not [the man]. Asking for help from the justice system further stigmatized her, even though she is a young girl, a victim of rape.<sup>115</sup>*

One of the prosecutors whom we interviewed said:

*In our work, the cases that get a high degree of attention are cases of rape, according to their danger. We listen to the victim's testimony under oath and she undergoes the examination of a forensic physician, but only if she agrees to such an examination. After that, we collect all the requested papers for the case, visit the location of the crime, and analyze the effects on her body. She gives her affidavit at the police station and testifies at the prosecutor's office.<sup>116</sup>*

The research identifies various paths in cases of sexual assault and rape:

**Rape → sexual-bodily assault<sup>117</sup> → Police → FPU<sup>118</sup> → Shelter**

As the following cases show, women whose stories follow this particular path ask for police intervention only after they experience direct physical sexual violence against them, including attempted rapes and actual rapes. In

most of the cases we analyzed, the perpetrators were close family members, relatives, or strangers whom the women dated or contacted to escape their family's violence. We found that when women who were in vulnerable conditions asked for the help of the police, the prosecutor, or unknown community members (e.g., not their teachers, educators, or health professionals) under many threats and fears of abuse by their families, the women's safety was further jeopardized and their social status weakened.

In the stories of three sisters—Dalia, Einas, and Fadya—we can observe the dilemmas that women face when they are caught in a weak social position due to the absence of family support or having lost the family's trust.

Dalia said:

*My sister and I were only a few months old, and our third sister was only one year and a few months old, when our uncle forced my father to divorce our mother. We used to hear a lot of bad things about our mother from our uncle, and we began to hate her. After the divorce, we lived with our grandfather. We are refugees from the 1948 area [villages that existed in what is today Israel], and we get aid from UNRWA and the Ministry of Social Affairs because my father did not work. Within a few months, our grandfather and father died. Our uncle became responsible for everything; he collected the aid from UNRWA and our monthly allowance from the Ministry of Social Affairs. At the same time though, he did not buy us any food or give us money to buy food for ourselves, so we were left without food.<sup>119</sup>*

Her sister Einas continued, saying:

*My uncle wanted me to get engaged to his son, who was 22 years old and a mechanic. I did not want him, but he forced me to get engaged. We were engaged for three months, and we signed the marriage contract. My uncle forced me to do these things.<sup>120</sup>*

As a reaction to the uncle's abuses, mainly sexual abuse, the third sister, Fadya, decided to approach the police, the FPU. She described the humiliating way they interrogated her:

*They asked me very embarrassing questions. What was the color of my uncle's underwear? The color of his sex organ? How was he having sex with me? Where and when did he have sex with me? Did I agree to have sex or not? Do I know how to use the internet? How old was I when he had sex with me? Is my sleeping light or heavy?<sup>121</sup>*

In such cases where the family becomes part of the problem, the women in the study reported that they were transferred directly to shelters, because the police or the investigator at the FPU decided that it would be too dangerous to send them back home as it might risk their lives. It is also very important to realize the difficulties these women face after emerging from cycles of sexual assault and rape. They have to describe what happened to them in detail at the police station when they file a complaint and must do so again during the interrogation

115 Interview in May, 2013.

116 Interview in April, 2013.

117 We tie the "bodily" with the sexual in order to highlight that the assault is on her body as well.

118 In most of the cases, women approached a Family Protection Unit (FPU), which are established for women as alternatives to police stations.

119 Interview in February, 2013.

120 Interview in February, 2013.

121 Interview in February, 2013.



at the prosecutor's office. These testimonies are very embarrassing and painful for women, because they have to recall and relive their traumas at every legal stage they pass through, including the last stage of trial.<sup>122</sup> It should also be noted that interviewees involved in two additional cases that occurred in 2012 and 2013 reported that the FPU acted in a humane and professional manner, while taking into consideration the societal discomfort attached to discussing sexual abuse and dangers facing females socially. Differences were also noted in various locations. For example, cases from Ramallah and Bethlehem were found to be dealt with in a more victim-sensitive manner, while cases from Jenin, Tulkarem, and Nablus received heavy criticism from those interviewed for the study.

It is also crucial to mention that in rape cases, every female should undergo a genital examination at the Forensic Medicine Institute if she wishes to file an official complaint against the abuser and have sufficient "legal" evidence to prove it. During this process, women's virginity is assessed, and they also are asked to recount the whole rape experience in detail. Several of our respondents, both victims/survivors and NGO workers, mentioned that women do not always trust the reports written by the Forensic Medicine Institute and don't feel safe attending their centers. This indicates a need to examine what happens to women during this process and develop better ways to conduct the very intrusive and embarrassing examination and support the victim through it.<sup>123</sup> NGO representatives, women activists, and prosecutors all indicated that there is a serious need to work on the forensic medicine examiners and sensitize them to the effect of such examinations on women victims/survivors. They also indicated that judges dealing with cases of abuses against women, mainly sexual abuse, should be trained to understand the psychosocial effect of re-visiting the abuse.

### **Rape → Sexual-bodily assault FPU → Police Prosecutor for interrogation Shelter**

In most of the cases of sexual assault or rape in this study, there was no intervention from the tribal legal system. According to the lawyers, prosecutors, and NGO workers who were interviewed, these cases are regarded as sensitive family matters, and so the tribal leaders do not attempt to intervene. Even if they did intervene, they would almost always blame the females for the situation, not the males. In one of the narratives shared by a young college woman, Nawal, 24, explained in our focus group that tribal leaders have no sensitivity to women's needs. However her classmate Iman, 22, disagreed with her and said that when her cousin had troubles with her husband, only the tribal leaders managed to discipline him. Then Nawal followed us after the focus group meeting and stated: "When the tribal leader came to the house and wanted to talk to me in order to decide what to do, and what steps should they take, their mode of talking was very hurtful." Nawal expanded:

*They were asking me questions such as, Why did you go out of your house after 5:00 pm? What exact route did you take to reach the village grocery? Did you really leave your home with a housecoat? Why do you think he dared to touch you? How come you allowed him to push you and injure you? Couldn't you scream?<sup>124</sup>*

Nawal's emotional reaction when sharing her ordeal being injured while fleeing an old man in her village who kissed her and tried to hug her by force further clarified how in some cases, informal intervention helps, while, as in Nawal's case, their attempt to intervene (for she refused to cooperate with them and ended up changing her story to block any additional intervention) resulted in causing further pain to the abused. Generally, however, when we asked individual women interviewees if any religious or tribal personalities tried to help, they said that there was no intervention from any of them.

*'Religious men' is just a big name that carries many question marks. Unfortunately they can't be religious men, because under the cover of religion, they would blame me and portray women as sinners who angered God. Before I left my husband, they sat with me and advised me to return to him, even though he didn't ask them to do so and didn't want me to go back to him. They always blame the woman and say that the woman must concede and suffer—she must, she must, she must—until you finally decide not to listen to them at all when they talk about religion or mention religious codes (...) and then they say that our religion does not allow it [separation or divorce]. These tribal men, it is better if they stand aside and do not interfere. They wanted to take my baby from me on the day I gave birth (...) They even tried to persuade my family to give my baby, by telling my father that I'm still young and that I could get married again, but that keeping my baby boy would prevent me from marrying again.<sup>125</sup>*

### **Rape → sexual-bodily assault → Social Affairs Unit → Police → FPU Shelter**

We found some cases of women who approached a Social Affairs Unit for help after experiencing assault. The unit would direct the women to the police, telling them that the police were the ones the women should contact if they wanted to leave home. For most of the cases we analyzed, the assault occurred at home and was committed by a family member, and the women themselves would file the complaint. The victims/survivors often found that their families, even their closest relatives like their mothers or maternal aunts, did not trust their accounts in cases of sexual assault. In one case, a young girl tried to tell her mother that she had been raped by her father and brother: "I told my mother about it but she did not believe me, and began to blame me."<sup>126</sup> In another case, a young girl who was raped by her father said: "My brother and my mother's brother believed me and took me away; but my father's brothers did not believe me, calling me a fajreh [heretic] and saying that I must be killed."<sup>127</sup>

122 We will elaborate this issue later in the themes of analyses.

123 On the Palestinian Forensic Medical System in the West Bank, see Daher-Nashif, S. (2011). The social and political "enlivening" of the dead Palestinian body: The case of the Palestinian Forensic Medicine Institute. (Doctoral Dissertation). The Hebrew University, Jerusalem.

124 Focus group meeting.

125 Interview in February, 2013.

126 Interview in March, 2013.

127 Interview in March, 2013.

**Rape → Sexual-bodily assault → Social Affairs Unit  
→ Return home → FPU shelter**

In four cases, the unit of Social Affairs tried to send the women or girls back to their homes after an incident of rape or assault. The four paths shared in the previous analyses show that no matter how the victim responded to the violent incidents, who was informed about the abuse, how young the victim was, who the abuser was, or who was involved in the justice process, the victims/survivors always ended up in the shelter—not for their own protection, but rather to erase their presence from the community—or as one victim stated: “to get rid of me.”<sup>128</sup>

**D. Multiple paths in one case**

The study findings indicate that most women who entered the criminal justice system by merely filing a complaint failed to achieve their objectives. If a woman who experienced violence began a case to file for divorce, her efforts would often result in an increase in the violence committed against her. In some cases, the efforts led to her being raped, subjected to constant psychological threats, an attempt on her life, or actual femicide.

These difficulties and risks led most of the victims/survivors to regret getting involved with the justice system, calling it a system of severe injustice. The women victims/survivors, women who were not victims/survivors, and social control agents interviewed in this study all suggested that the system, the workers, and the laws fail to safeguard women’s lives and prevent further abuse. Children who faced abuse from their father and children of abused women also suffered a continuity of violence in their lives. This cross-generational effect of violence can be seen in the following case.

Alia was eight years old when she and her three sisters witnessed their father abusing their mother. The father’s abuse did not stop there, and he started sexually harassing his own daughters, including young Alia. Her mother requested the help of a women’s organization. They provided legal aid to get the mother her divorce but failed to support the young girls; as Alia stated:

*Even when I needed help getting back into school, the social worker stated that this is not part of her work... I was even ready to go to a boarding school with my sisters—anything not to feel his heavy body on me—but the social worker did not understand my mother’s request.<sup>129</sup>*

At one point, the abusive father took Alia and her oldest sister and ran away with them outside the West Bank to a place in Israel, near Tel Aviv, where he sexually abused them and prostituted them to gain money. At age 14, Alia ran away from him, even while she suffered from severe anxiety attacks and physical fits, and returned to her city in the West Bank. Her mother took her to a psychiatrist, who decided that she needed mental hospitalization. She was treated in the mental hospital and released to her mother’s house. Her father managed to find her and took her back to areas under the Israeli jurisdiction, close to Ashdod. She tried several times to run away, but the borders, checkpoints, and her need for official documents prevented her from leaving the area. At a later point, the father managed to find her sister and brought her also to

his place inside the Israeli border. At one point, and after a long time of suffering abuse and being prostituted by their father, both sisters ran away and returned to their neighborhood. It was around the year 2004-2005 when Alia and her sister filed complaints against the father, but they ended up being imprisoned for over a year in order to be “protected” from any attempt by the father or his family to kill them. When they asked for help from community and political figures in their area, she and her sister were sexually harassed and abused.

Eight years have passed since Alia returned to her neighborhood, but she is now considered a criminal and a prostitute and is facing many accusations against her and her sister. She is serving prison time, and her fate is unknown. She concluded her narration by stating: “So, you think, at the age of 24, when I leave this place, that I will find a home to go back to? Or a place to work in? Or a family to host me? Or a husband?”<sup>130</sup>

Alia’s story, like the stories of other women, suggests that no matter who deals with the abuse or how it is dealt with, the systems of social control (including the Palestinian Ministry of Social Affairs, the justice system, the informal social control agents, and the various women’s and human rights organizations) are failing to protect victims/survivors’ rights to stay in their communities and their rights to safety and dignified lives. Letting abusers go free, or free until proven guilty, while at the same time uprooting or imprisoning women in jails or even keeping them in shelters where their security, freedom, and ability to go about their lives are severely restricted requires serious critical introspection and scrutiny for its damaging effects on women and their pursuit of justice. As Alia stated:

*We [she and her sister] lived and are still living a life with no hope. He stole all our hopes, and those who claimed that they are helping us—first, that women’s organization, then in the prison, and lately in the shelter—they all fail to understand the meaning of life without any hope. He killed us alive [the father], and no one was able to punish him—no police, no prosecutor, no Ministry of Justice or Welfare. And Israel and his friends there [in Israel] helped him live his life as a man. It is only we who have lost everything, at ages 23 and 24.<sup>131</sup>*

**E. Paths of justice within Areas C and H2**

*Over here, this is called Area C; women can’t live like humans, but rather like animals. My sister wanted to officially certify her grades, just to be able to find a job, to support her children, but she could not leave due to the authorities’ refusal to give her a permit. We believe that her husband has strong relationships with some Israeli officials, and that is why they are denying her right to a permit. They are denying her right to life, and her abusive husband is keeping her under his mercy. When I went to one of those organizations asking for help, they said that my sister should come to them, and that they can’t take any steps without her approval. When I told them they could call her and talk to her, they said this is not acceptable according to their own internal regulations.<sup>132</sup>*

Maha, 19, college student

128 Focus group meeting.

129 Interview in July, 2013.

130 Interview in July, 2013.

131 Focus group meeting.

132 Interview in June, 2013.

Maha's story is one of the many that we heard from Area C that unveiled the effects of geopolitical restrictions on women's accessibility to justice. The testimonies of both women victims/survivors and possible victims/survivors (women who participated in our focus group discussions, but did not share with us their own personal victimization) suggest that in cases from Areas C, H1, and H2, women were frustrated and anxious because of the lengthy times and weary processes they had to go through just in order to approach social institutions, human rights organizations, or the justice system. Even in cases where women were able to access the legal system, the lengthy process, the money required, the tiring commute to the location, the Israeli permit system (which requires the submission of specific official papers to get a permit to cross or move from one area to another), and the lack of sensitivity from local service providers caused constant frustrations. These effects of economy, space, and time are particularly severe for women living in Area C, making them feel that they are unsafe and unprotected. The financial aspect was very apparent in our interviews with women respondents; women noted that they spent a lot of money on transportation. For mothers, the issue of what to do with their children is especially crucial, as sometimes they cannot attend the legal proceedings due to the lack of childcare or due to a child's illness.

Maysoon, another college student, explained:

*When my friend needed to invite a witness to her court case, she needed to pay for the transportation and the food. She also needed to pay for them to get an official permit [from the Israeli authority] to reach the court, and then, when my friend managed all this, the court was postponed because the judge could not cross the checkpoint.<sup>133</sup>*

Most of the social control agents interviewed in this study repeated many of the same troubles faced by Maysoon's friend. They stressed the fact that since there is little protection for Palestinians in general, including women in Area C, mainly because the police and the Palestinian system can't reach them easily, they find it difficult to work with women, men, or communities living or hiding in Areas C, H1, and H2. The interviewees explained that finding witnesses for their cases was a tremendous hardship. They explained how they did not know whom to ask for help or whether they could reach any service provider at all. They further explained the financial burdens on the victims/survivors, who are required to pay for their own witnesses' transportation and other expenses. Furthermore, sometimes women exerted tremendous efforts to arrive at the court, only to discover that their cases had been delayed for various reasons without any notification to them. In such instances, the witnesses were asked to return at another time—incurring yet another procedural fee. Several women claimed that the money they pay to pursue redress for the case is more than the money they receive after it ends. As a result, they prefer not to approach the legal system and instead try to solve situations through informal social institutions, such as the tribal system. This solution is used when the case is about violence, divorce, and/or expenses (child

custody, alimony etc.).

Our focus group shared many stories of how frustrating it was to attend and attain justice while living in Area C. Due to women having to move in and out of Areas C, H1, and H2, the pursuit of justice was a constantly spiraling endeavor:

*I am so tired of courts. I have been going there almost every day, and each time they find a new missing paper, a new part of the law that should be applied. There is a kind of darkness, no clarity (...) I had filed for divorce two years ago but nobody can take the papers to him [the husband] in his village<sup>134</sup> (...) Time is passing and each day you hear a new discovery in my case. A year has passed, and now they tell me that I must renew the papers because a year has passed, and I paid so much money on transportation between Al-Ram and Ramallah. I can only file a complaint on Thursdays, and Thursday is a short workday, and when I arrive they tell me that they are done for the day.<sup>135</sup>*

These difficulties can become so detrimental that if a woman's life is under threat, and she tries to reach the police, the court, or the Social Affairs Department, and one document does not reach someone or a witness fails to arrive, the woman's life and safety is often in jeopardy to the degree that some women were killed while awaiting justice. One young woman in our focus group at one of the colleges explained:

*My friend was killed. Do you know that she tried her best to go according to the law, the regulations, the family's requests? Her husband drove her crazy, for he was hiding in Area C, then back to Nablus, then in Hebron with his relatives. She kept on trying, she even managed to get a report from the mental hospital...but she was killed before she achieved justice. What justice are you discussing with us, if we as Palestinians can't achieve justice as a nation, with all the international support we are getting? How do you want my friend to prevent her husband and brother from killing her?<sup>136</sup>*

In our interviews, women commonly connected their ordeals and failures to access the legal system from Areas C, H1, and H2 to the Palestinian national experience. Many of the college women said that if their own nation could not attain justice with all the international human rights laws and local and international activism, how could an individual woman face the militarized restrictions before her—restrictions that not only impoverished her and her family but also jeopardized her safety by empowering patriarchy and enabling males to abuse females?

Manar, a 22-year-old law student, explained:

*Palestinian women are like the story of Palestine: We live our uprooting every day. I can tell you that the law never protected us, neither as women nor as Palestinians. Here I am, living in H2, a couple of settlers control our entire lives, our movements, even our decisions. Just look at me: I accepted a marriage offer not because I was convinced, but because I am trapped in this place with no way out. My only way out was to accept marrying someone from the Bethlehem area, just to free myself a bit. Look at the situation of my relatives. My aunt is being abused by her*

<sup>134</sup> They both live in two different villages in Area C.

<sup>135</sup> Interview in March, 2013.

<sup>136</sup> Interview in June, 2013.

<sup>133</sup> Interview in June, 2013.



brothers, and she can't even reach the court, or even think – I really mean the mere thinking – of going to the police and asking them to interfere. Here in my area, many women and more young girls suffer from this suffocation. I really feel so sad for my youngest sisters; they are even prevented from dreaming. Just listen to my 14-year-old sister, who writes poetry so well; she can't even dream or plan to enroll in Bir Zeit or Bethlehem University.<sup>137</sup>

The women interviewees expressed their inability to even dream about a better future. In their discussions, they could not differentiate between their personal lives as young women, their lives as families imprisoned in spatially restricted areas, and their nation's exceptionally oppressed condition. As Salwa, 25, stated: "Some Palestinians live in refugee camps in Lebanon or in Jordan. We live in refugee camps that are not called camps, but which are worse, for we have no security."<sup>138</sup>

When we asked to hear more about the effects of the restrictions on movement and the militarization of space, Khawla, 22, Manar's cousin who joined the focus group, stated:

*It is true that men also suffer when living in Hebron, particularly in our area (H2), but the suffocation made more men unemployed and made them more worried about women's and girls' safety, and this gave them power over us. For example, my little brother needs to accompany me every time I leave the area. All our male relatives need to know every movement, every act we do, every shop we enter; all this because they fear the threats against our security. Then, those settlers that jump in our faces without notice—they keep us in a state of constant fear and uncertainty as to when would they attack, what graffiti would they write, what they will do, and what could happen to us. (...) Lately, I have been suffering from severe difficult (shortness of) breath, because I can't focus; all I do is hear new stories about the threats against us. Under such conditions, one has no mind to study, to organize their house, or plan any future. All this is causing troubles, and I am having some hard times in my marriage, but I will never ever think of looking for help from the legal system, the court, let alone the police. My husband can't find a stable job—would I add to his already burdened life? Living here requires that we stand together, and women here strongly need men.<sup>139</sup>*

Ghaida, 22, supported Khawla's statement by saying:

*In H2, we should all be attentive to the external danger of the settlers, and they are very vicious; they follow every movement we make. If, God forbid, a woman goes to complain against her father's or brother's abuse, the whole community will abandon her. I can even tell you the story of one of my relatives who went to a women's organization to ask for help. She paid such a high price because all the men in the area stood by each other. They all supported each other, supported the father and the brother, and she lost it all. She even lost the help and support of the women in the community; actually, the women were even worse than the men.<sup>140</sup>*

Khawla responded:

*I tell you, it is better for a woman to be killed. She will find more love and respect as a dead body than to even think about approaching any formal system. It might be better to ask a women's organization for help, but again, who knows how it could end up. The daily problems in this area, the constant fears of the settlers' attacks, and the daily Israeli raids into our houses becomes a serious obstacle in women's ability to call for any help, let alone formal help. Maybe our best bet is to work with our fathers, brothers, and husbands and make them aware of our rights to safety and security; but forget about the law. Law can be applied in normal places, in America, maybe in Tel Aviv; but not in Hebron or Jerusalem.<sup>141</sup>*

Alia, 22, another college student who discussed Area C, described how the militarization of space reproduces patriarchy and promotes new modes of patriarchal exclusion and control:

*Women in Area C are not protected. The opposite is true for men, who are the perpetrators and the people from whom we want justice; but it is difficult to catch them in Area C. It is the same in H2, which is under Israeli control and requires security coordination. Sometimes the coordination is prevented, and it becomes very difficult to perform the legal duties and decisions of the cases.<sup>142</sup>*

A female lawyer who lives in Area C shared with us the following story:

*A young woman who ran away from her abusive marriage came to live beside us, for she could not handle her husband's abuse. She used to work as a helper in a kindergarten. She rented the room beside us and brought her mother to live with her. But, since this is Area C, her husband managed to gather some armed men. They attacked the two women, and I saw them from the window when they left. The two women were dragged with them, while the husband was walking as if he had won a war. He took her back by force. I called the police, but none of them followed up, or managed to reach the two women. They live here in Area C; but who cares about women's rights here?<sup>143</sup>*

The discussions of the hardships faced by women and girls in Area C revealed the main vulnerabilities of women in their attempts to access justice to end their marriage, keep their children, prevent sexual or physical violence against them, receive their inheritance rights, and more. Respondents who discussed Area C expressed their belief that living in such areas exacerbated inequalities between men and women, between rich and poor, and furthered the gap between Palestinians and Israelis. Living in or close to Area C (such as in villages between Areas A and C) restricted women's accessibility to the PA's institutions and further excluded them from their own social support system. In the cases of women working in agriculture and farming, respondents indicated that worsening of poverty and unemployment deprived women of an education and of the chance to continue their higher education.

137 Focus group meeting.

138 Focus group meeting.

139 Focus group meeting.

140 Focus group meeting.

141 Focus group meeting.

142 Interview with focus group in June, 2013.

143 Focus group meeting.



One issue that was apparent when listening to the women's stories was that Israel has repeatedly changed the boundaries of Area C, making it extremely difficult for women living in and near to the area to know how to access services. As Maha, 24, explained:

*In our neighborhood, they change the legal definition of the area every time Israel decides to do so. First they had the checkpoint opposite our house. Then they moved it further down, which made our house part of the West Bank. At a later stage, we became Area C, and they even constructed the wall to separate us from the main street and from our friends, families, and lifetime neighbors. So when my father passed away, and my mother was struggling to get her rights from my uncles, no one helped us. She actually managed to get a court order for her rights, but she could not get the PA police to enforce it.<sup>144</sup>*

Maha's story supports the analysis that, under military occupation, women's otherness is embedded in the social body and political fabric of the Occupying Power. The constant dispossession enhanced women's marginalization, and reproduced and constructed a new and robust form of patriarchy. Such unbeatable patriarchal militarized conditions were also reflected in the words of Naela, 22:

*In Al-Ram, where I live, the wall divided our neighborhood. Half the people at home carry a Jerusalem ID, and half (like myself) have a West Bank ID. The combination of the political situation, the restrictions on movement, and the fact that our area is Area C, left us in a condition where we do not belong to anyone. So, my life can't be protected, and it is in fact the opposite: someone like me can be the best victim, for no one can protect me. The PA can't even step in here, and Israel, as you know, has no problem with erasing us.<sup>145</sup>*

Naela's statement was debated by a number of college women, 8 out of 12 of whom lived in Area C. For example, Samira, 24, said: "In Area C, it is Israel and the PA that decide when to get in, who to protect, and who not to protect." Her comment raised a great deal of discussion, and the young women shared many stories to show that if Israel was interested in getting in, and if the PA also had an interest, they would find a way. Siham, 24, shared this story:

*In the past couple of months, we noticed that the PA and Israel are in total coordination. The building beside us was raided by both of their police forces, the Israeli and the Palestinian together. Why? Because they feared that the men living in that building had weapons, and it seems that the weapons were stolen from some Israeli settlement. So they managed to coordinate to catch the perpetrators, fearing their weapons. And they ended up handing over a group of men to Israel. So, when it is Israel's security, they find a way to come in and catch perpetrators; but, when it is me or my mother in need of support, no one will even care. This is justice in our area.<sup>146</sup>*

144 Focus group meeting.

145 Focus group meeting.

146 Focus group meeting.

Siham's friend, Maram, 21, shared another story:

*It is not only in cases of weapons but [also] in cases of drugs or selling of outdated meat. We also learned that a family relative who dealt with outdated meat was arrested, all with cooperation between the Israeli and PA police personnel.<sup>147</sup>*

The cooperation between the PA and Israel was also apparent in the following story:

*A while ago, maybe 4-5 months ago, there was a building hosting a group of men who were trafficking and sexually abusing Palestinian women. They used to bring women here, to Area C, and use them for prostitution. We called the PA police several times, and we even called the Israeli police, but no one cared. One day, a woman came and found out that her daughter was also used by this gang, and when the daughter saw her mother, out of fear, she threw herself out the window. All the neighbors looked for a way out, and called the police on both sides, but no one cared. The mother barely managed to get an ambulance to take her daughter to the hospital, and no one knows what happened to her, whether she is dead or alive.<sup>148</sup>*

The previous story raised many fears and questions, and prompted young women interviewees to share similar stories of groups of men using and abusing women and girls. They explained how financial need and poverty, adding to the inability to seek help in such an area, jeopardized the lives of many Palestinian women. As Salwa, 19, explained:

*Men in Area C have now found a new profession: They can own prostitution houses; they can have factories and employ women; they can steal and hide things in Area C and have women sell them. So they get money, and we women get killed. This is the condition of Area C.<sup>149</sup>*

Area C was repeatedly described by legal workers we interviewed as a hindrance to women's access to justice. For example, an administrator of a Palestinian Family Protection Unit (FPU) in the West Bank described her work in Area C as follows:

*In order to access Area C, we need the permission of the DCO.<sup>150</sup> We have to call him at every event, give him the names of the policemen who will enter the area, their ID numbers, the number of weapons they have, the cars' numbers, and which equipment will be taken. After giving them all of these details, instead of giving us an answer in 15 minutes, it takes them two to three hours. If we coordinated with the DCO, we could go with our official uniforms; if we did not, we were prevented from going into the area, and if someone informed them of our presence without the permission, we would all be taken to prison. Imagine what an image it would be to have the police being taken to prison. How can we demonstrate authority or control when we ourselves are controlled by the Israelis (...) Sometimes if the event is not urgent, we try to coordinate with the village council. For example, if someone is wanted in the justice system, we ask the village council to help us reach them. If we coordinate*

147 Focus group meeting.

148 Focus group meeting.

149 Focus group meeting.

150 Direct Commission Office between Israel and Palestine.

*with the DCO, we have to ask for more than 30 persons at the same time, instead of asking for coordination every day or every week. We utilize the single-case request for certain cases, while we organize arrest campaigns with one entrance into Area C.<sup>151</sup>*

A prosecutor who was interviewed further described the process of entering Area C:

*We went to the crime scene and investigated the case—a husband who had killed his wife in front of their three children. Everything we did was done in coordination with the Israeli side (...) In hard cases such as killings and rapes, we make the effort to enter Area C, but in other cases, in which there is no life threat, we can't enter easily.<sup>152</sup>*

The previous quotations raise serious questions as to whether the Palestinian legal system can function effectively, or if accessibility to PA legal officials is even possible in Area C. Further questions that arose after that interview were whether the Palestinian DCO (District Coordination Office) considers the beating of a wife, sister, or child a dangerous or life-threatening case. According to the narratives we collected, in Areas C, H1, and H2, if a woman's life is not truly endangered, the DCO does not make the effort to initiate proper coordination. If the woman has already been killed, then the DCO responds more quickly and smoothly. The number of testimonies to this observation was so numerous that it almost seemed as if women had to be killed in order to receive appropriate help. Should women really have to be dead bodies for the system to function?

Our interviews also showed that Area C is used by Palestinian perpetrators as a destination to escape from the Palestinian legal system in Area A. For example, one woman interviewee said: *"Both my brothers escaped to Area C and no one can bring them back to be punished for the violence they inflicted on me."<sup>153</sup>* A director of a women's center concurred, saying: *"The security services are not able to enter Area C. As a result, people have to solve their problems through popular committees and social frameworks which are based on a tribal approach."* One prosecutor further commented that: *"The tribal solution is useful in some cases; sometimes we can't reach Area C and H1, so we ask their help in arresting specific suspects."<sup>154</sup>*

In a focus group with three NGOs, social workers claimed that:

*Women in Area C are not protected. If they called for help when their life was in danger, in order to reach her while we arrange the security coordination, we are sometimes forced to ask for the help of tribal men until the police arrive to protect her. But sometimes she could be killed before they reach her.<sup>155</sup>*

A woman from Area C also recounted her experience with this: *"Tribal men tried to intervene [in my divorce case], but it would have been better if they didn't. They tried to take my son from me on his first day of birth...these are well-respected men from my family in both our villages."<sup>156</sup>*

151 Interview in Ramallah, March 2013 ,27.

152 Interview in Ramallah, March 2013 ,27.

153 Focus group meeting.

154 Interview on April 2013 ,1.

155 Interview on June 2013 ,3.

156 Interview in March, 2013.

## F. Paths of women in conflict with the law

To further comprehend the formal legal processes that women need to go through, we examined and analyzed 10 cases of women who themselves were in conflict with the law in various charges including:<sup>157</sup> 7 charged with killing, 1 for theft, 1 for adultery, and 1 for espionage. The paths for these cases can be summarized as follows:

### Revealing the act → Being arrested → Extension of arrest → Imprisonment

An example of this path is the case of KA. The crime occurred in February of 2008 in a village in the Hebron area. KA was accused of murdering another woman. On the same day, there was an investigation of the crime scene and an autopsy of the victim was conducted. The suspect, a woman, was arrested and questioned four days later. In March, testimony was gathered from the eyewitnesses who had found the victim's body, as well as from KA, the alleged perpetrator. From April until May, testimonies were gathered from all the individuals who were involved in the case, including the policemen who arrived at the crime scene and the doctor from the village medical center. The suspect was remanded until March 2010.

Our interviews showed that the fragmentation of the West Bank has greatly affected the long drawn-out legal processing of this case. Moreover, other interviewees who had been imprisoned also mentioned this problem, indicating that time and space were entirely intertwined with the West Bank's geographic and political systems. In one case reviewed for this study, a woman who did not have a Palestinian ID card had killed her mother-in-law. The murder occurred in Nablus in December 2006, and a charge sheet was introduced on January 6, 2007. When we looked at the case, we found that a hearing had been held every month of her imprisonment. She was first jailed in a women's prison in Nablus. The prison was closed in February 2009, and she was moved to a women's prison in Jenin. However, the hearings continued to take place at the Nablus court. As stated in the files, moving from one area to another required an Israeli permit, or at least coordination with the Israeli authorities. So KA was required to apply for an Israeli permit to enter Nablus merely to attend her own trial. It must be stressed here that in the case of KA and other similar cases, transporting women prisoners from one place to another and the entire process of coordinating gave more power to officials to use the prisoners' dire need to reach the court to extract concessions and in some cases even to abuse them. In further analyzing the cases, we learned that at a later stage, when the prisoner had been moved to Jenin prison, some of the witnesses for her case simply did not show up. One reason was that they were simply unable to obtain permission to transfer from Nablus to Jenin, and another was that the police did not issue written orders requiring the witnesses to be present at the court. In several hearings, even the defendant's lawyer was unable to reach (or maybe used women's vulnerability and the justification of the political situation to not appear in

157 We didn't receive an official permit to interview women who are incarcerated. We tried to obtain one, but we couldn't. This was one of the research limitations.

court) the court to represent her client because of Israeli restrictions in their area.

These restrictions, in addition to the PA's poor functioning, have led to this particular case being repeatedly extended, all while the accused woman remains in prison awaiting trial. At the time of writing, the case was still open-ended. The woman's movement from one location to another, including between the prison and the court, had to be done in coordination with the Israelis. Between May 2007 and September 2008, when the case was in process, no witness summoned by the attorney could come to the hearing. At a later stage, some of the witnesses were able to make it, but the others failed or refused to come. These obstacles greatly slowed the legal process and violated the woman's rights to due process and her rights as a prisoner. Such delay violates the UN Minimum Standard for the Rights of Prisoners, which specifies clear guidelines vis à vis the rights of any person held in custody.

## II. Women facing injustices, charges, and attacks within the criminal justice system/ Police/Family Protection Unit (FPU)

The role of the Police Unit and its specialized Family Protection Unit (FPU) is to take the complaint of a woman who has suffered violence, whether from her spouse or from another relative (if the victim is under 15 years of age). Our research identified various problematic police behaviors that require reform. For example, several interviewees mentioned that women were criticized for coming to file a violence complaint against a husband, brother, or father, especially when the violence was not visible on the complainant's body. For example one lawyer said: "Sometimes when the woman goes to the police, they deal with her in a very accusatory or condescending manner, asking her why she came to the police station and even giving her the feeling that she was beaten because she did something wrong."<sup>158</sup> Another lawyer stated: "When a woman goes to complain [to the police] about sexual harassment or rape, they treat her as if she consented to the sexual relationship, and [insinuate] that it was not her first time doing so. They treat her as if she was a prostitute."<sup>159</sup>

This kind of prejudice expressed through the police's "treatment" prevented women from returning to the police station to ask for help or to file a complaint. Women also shared that they became discouraged from going to the police stations to file complaints about rape or sexual assault because the police questioned them in a demeaning manner. The police would ask very intimate questions and details of the event, including how she was dressed; what the perpetrator did to her before, during, and after the assault; and other embarrassing questions such as how the women realized that it was a penis, an erection, and so on. These questions and the tones in which they were asked caused many women to feel ashamed, anxious, and humiliated. Formally and legally (according to official regulations), the only person who

is responsible for conducting the formal investigation or interrogation is the public prosecutor, the attorney general, and members of the prosecution, including the assistant prosecutor and chief prosecutor. One lawyer said: "In sexual violence cases, the women must relive and reopen their traumas three times: first, at the police station, next, at the prosecutor's investigation, and finally at the court."<sup>160</sup> Our interviews with legal system and NGO workers pointed to yet a fourth such re-traumatization: when the victim undergoes a forensic examination.

*A male prosecutor said: "We are a conservative society, so each and every question on sexual issues can cause women to be embarrassed. The policeman must fill out an official form, and female victims/survivors must give details in order for the police to know if she really experienced rape or not. But it's true that it is not easy."<sup>161</sup>*

*According to a female lawyer: "In most of the cases of rape or sexual assault, women complain to policemen and not policewomen, because the policewomen go home between 13:00 and 13:30, after which there are only policemen at the stations. That makes it harder for women to describe what happened to them."<sup>162</sup> She added: "What makes it harder is when a girl who is younger than 15 comes in with her father or other family member, and she must describe what happened in front of that person. Sometimes she doesn't speak openly, so her complaint is lacking important details, and the case is compromised."*

The analysis of female victims/survivors' narratives, and the discourses and analytical reflections of the various interviewees in this study suggest that the protection system is lacking a professional social worker to assist female victims/survivors of violence as they move through the system. Supportive relatives should also be allowed to remain with the victims/survivors, so as to make sure that they have the necessary support from their close circles. A clear attentiveness from both the formal and informal protection systems might create a buffer that could prevent further victimization.

### Stay at the Family Protection Unit (FPU)

When the case concerns a woman who experienced rape, sexual assault, and/or life threatening situations, the police do not send the woman back home, because her life is at risk. In such cases, after filing the complaint and before transferring her to the prosecutor or the shelter, the woman is kept at the police station/FPU. These places are not adequately prepared to accommodate women who need to stay at the units, as there are no special rooms designated for such situations, and so women find themselves having to sleep on a seat at the unit. The question we then asked was: What might these women experience if they are alone at night with policemen? How do they feel? How would society react or perceive the women?

158 Interview on February 2013 ,27, Ramallah.

159 Interview on February 2013 ,27, Ramallah.

160 Interview on July 2013 ,10, Jerusalem.

161 Interview on March 2013 ,27 (We'll not mention the location, because it may reveal the identity of the prosecutor.)

162 Interview on February 2013 ,27, Ramallah.



We learned from the women interviewed, be they victims/survivors, in conflict with the law, or social control agents (both men and women), that the stays at these units are traumatic, uncomfortable, embarrassing, and frightening. In Hebron, the FPU is located in a special building divided into two departments, an administrative one for filing the complaints and a residential one for the public to stay in while the complaint is filed. Interviewees indicated that even the staff members at the residential department are uncomfortable with keeping women overnight because of the social stigma that it subsequently attaches to women who “stay alone in a building with policemen.”

It should be noted also that leaving abused women and girls under such unprotected condition increases their vulnerability and exacerbates their feeling of being abandoned and isolated. A young girl who experienced this situation shared with us that after that night, alone in the police station, she spent the night thinking of ways to commit suicide: “All I had in mind is how to burn myself (...) all I wanted is to die (...) burn myself, hang myself, and leave this world.”<sup>163</sup>

### The staff

In most of the interviews, both women victims/survivors and legal workers pointed to the absence of female staff in both the formal and informal legal systems. For example, one of the prosecutors interviewed said: “One of the difficulties that we face when dealing with women’s cases is the absence of women specialists for following up on cases.”<sup>164</sup> A director of a women’s center said: “Many of those working in the criminal justice system carry a male chauvinistic mentality, and somehow a part of our work is supposed to increase the number of women working at the legal system.”<sup>165</sup> The director explained that on one hand, the aim is to have more women working in the system on the assumption that women can be more attentive to other women. On the other hand, women judges, lawyers, social workers, and others can actually be harsher and more patriarchal than men. This became a serious challenge.

Our data also show that in many cases, women can sometimes be even more chauvinistic than men and hold patriarchal beliefs to the extent that they cause more harm than help to abused women. In one case, a female police officer was found to be very harsh on women and more demeaning to the victims/survivors than their abusers.

*When I went to the police unit they treated me in an inhumane way; they said that if I did not compromise, they would arrest me and my mother. I came as a beaten woman, and the entrance to the police station is itself violent (...) I remember they brought a girl who ran away from her home and was missing for three days. The police who investigated her looked me over from head to toe. The rape was easier than his stare. I told him to go away from here.*<sup>166</sup>

Women’s stories about their experiences seeking police assistance revealed great hardships, from not being able

to openly discuss the abuse inflicted upon them, to the police station’s unpleasant and frightening environment, to the demeaning attitude of police officers, to the intrusive officers asking about the women’s sexual behavior and history.

In addition, these police units are burdened by a huge number of cases and serious understaffing. A coordinator in an FPU stated:

*We have 7 staff members, 5 of whom work on these cases. The number of cases in 2012 was 865, so the number of the cases doesn’t fit with the number of staff workers. These cases are not finished in one day; sometimes it takes two to three months. At least 200 cases are urgent, 70 cases are classified as complicated or risk the woman being killed, one woman was killed in 2012, and 80 cases are related to running away from home. The number of the latter cases is increasing, so that may become a growing phenomenon.*<sup>167</sup>

The police officers interviewed were aware of the perceptions of women, victims/survivors, and service providers vis-à-vis the police’s role and behavior. They explained that police officers find it hard to deal with cases of sexual abuse and violence against women when their staff numbers are small, and when the cases are time consuming. As the coordinator in the FPU explained, in the last few years, his department has tried to improve services for women and be more attentive to their cases, but much more improvement is needed. It should be mentioned that the police officers interviewed, as well as female victims/survivors, explained that even when the police were attentive and tried to bring the abusers in for investigation, the roadblocks, the checkpoints, the Area C restrictions, and other related geopolitical difficulties caused many delays and further jeopardized women’s safety and right to justice.

### The prosecutor

The physical location and conditions of the public prosecutors’ office do not offer women confidentiality to help them lodge complaints with a sense of security. The locations of these offices are often in very open, public spaces. The rooms in which women detail their complaints are usually in close proximity to the waiting rooms in these offices, which allow all conversations to be overheard and compromise privacy. Some of the offices are very intimidating: in Hebron, for example, the public prosecutor’s office is regularly filled with policemen, and the detention cells are right in front of the investigation rooms such that one can even see the detainees being held. The Hebron office does not have sufficient rooms to hear complaints, and the entrance to the building is frequently crowded with people waiting to get inside. Thus, women arriving at these offices seeking a confidential ear instead find their stories and their private lives on public display—a visible and embarrassing ordeal that shames and discourages women when filing complaints, which can make them withhold certain details or deter them from approaching the investigators.

Women are questioned about their complaint at the prosecutor’s office. In cases of violence, the prosecutor

<sup>163</sup> Focus group meeting.

<sup>164</sup> Interview in April, 2013.

<sup>165</sup> Interview in June, 2013.

<sup>166</sup> Interview in February, 2013.

<sup>167</sup> Interview in April, 2013.



explains to the woman the scenarios that await her by taking action on the complaint. One male prosecutor explained: *“A woman comes and wants me to imprison the husband [because he attacked and beat her]. I ask her, are you sure? If he goes to prison, you are going to be divorced, and if he is in prison, he cannot pay alimony. A lot of women say they want a divorce but do not want to imprison the husband, because the families don’t trust the women and would blame them for the divorce.”*<sup>168</sup> He added: *“Sometimes a woman will file a complaint against her husband without her family’s knowledge. When she goes back home and tells them about it, they tell her that if she does not cancel her complaint, they will kill her; and so she does not continue the process. A lot of women, even after their investigation or complaint to the police, disappear and do not come to the court hearing.”*

The interviewees’ stories revealed that in such cases, the tribal men intervene in the formal legal process in order to bring the woman back to her husband’s home, even if they know that she will be beaten again. The women interviewees – victims/survivors, in conflict with the law, and young college students – all said that the tribal leaders work only for the men’s benefit, treating women as objects or properties while acquiring money for their counsel and activities. Sometimes the governor will also interfere in a case’s legal process and decide what steps to take to resolve the situation. More than half of interviewees in this study mentioned this circumstance.

However, as noted above, in cases of sexual assault that have been brought to the formal legal system, tribal and informal institutions (including religious personnel) do not interrupt the legal process. Numerous cases of rape within the family and sexual assault, particularly against girls under age 15, do not ever enter the legal system because by law, the victim must be accompanied by an older family member or custodian in order to file a complaint. In such situations, the relative who is supposed to accompany her is in fact the perpetrator, and so many cases involving young girls go unreported. We urge that the issue of young girls be further studied, and young girls’ experience with the justice system be further investigated.

In addition to the former challenges, it should be noted that prosecutors who conducted criminal investigations in Area C pointed out that the Israeli authorities were more cooperative in granting entry permits when the reason for traveling was to inspect a crime scene than in other sorts of cases, such as thief or life threatening. As one prosecutor said:

*The coordination with the Israelis is much faster in cases where women have already been killed than in cases involving threats on women’s lives. For example, in one case where a mother was killed in al-Ram by her husband in front of their three children, I was able to easily get to the crime scene and to conduct the investigation around it, and brought the husband to justice.*<sup>169</sup>

This gives the disturbing impression that Israel is more willing to coordinate and issue permits for prosecutors when women are only dead bodies. It also suggests that, as one female prosecutor indicated, Israeli officials

“enjoy” listening to stories about abused Palestinian women, mainly sexual abuse against young girls. Similar reflections were found in the questionnaires completed by the prosecutors, when 18 out of the 23 respondents stated that Israel expedites its issuing of permits in homicide and femicide cases; however, urgent permits to intervene when a crime is imminent take much longer to be granted. It is of grave concern that a threat to a person’s life matters less to the Israeli bureaucracy than if the victim has already died.

In more than 20 interviews, women claimed that they faced inappropriate treatment from the prosecutor themselves. Nawal, a social worker, explained:

*Women are sometimes exposed to verbal violence by the prosecutors (...) They return to the safe home holding negative views of the prosecutor. I’m not distrusting all the prosecutors, but I’m asking that they develop a special unit that deals with family issues and women’s issues. Sometimes girls hold back a lot of important information that could be very helpful to their cases because of how they were questioned in the investigation.*<sup>170</sup>

Nawal’s words shed light on an important issue regarding the information collected following women’s complaints. If women are concerned about being harassed and disrespected by prosecutors or in fact if they are actually being so harassed, they may hold back crucial information. An insensitive and untrustworthy investigator is a critical issue that cannot be overlooked when devising policy recommendations. In interviews, female prosecutors mentioned that the past year featured numerous trainings and discussions around gender-sensitive analyses and responses in the prosecutor’s offices. It must be noted that, during the writing of this report, one prosecutor called the authors and asked for help in finding a way to protect and support a woman who had been stabbed five times by one of her own family members. The prosecutor explained that she had called a women’s organization asking for assistance, but the response she received was not satisfying; they did not take into consideration the victim’s condition as an injured mother who was being supported by her in-laws while her attacker was in prison. The discussion with that prosecutor revealed the importance of acting in a swift and timely manner, because even the slightest delay can cost women and their families more harm or even their lives.

Our research found that the prosecutors were conscious of the complexities of dealing with women’s accessibility to justice. They provided details about the patriarchal nature of their profession and its institutions, but they also stressed the fact that the geopolitical conditions, including the rival Palestinian political factions and security forces, added to the insensitivity of abuses inflicted upon women. All of these factors hinder prosecutors’ abilities to act in a fair and contextually sensitive manner when dealing with women’s access to justice.

## The lawyers

Women’s access to justice was also denied when they sought the help of lawyers. In more than 25 cases, the interviewees voiced blame against the lawyers for the

168 Interview in March 2013.

169 Interview in March 2013 ,27.

170 Interview on April 2013 ,17, with a director of a shelter.

manner in which they dealt with women. Some of the women said that they did not feel confident with the lawyers, because they felt that the lawyers were only concerned about how much money they could get from their clients, not the outcome of the case. One woman claimed: *“The lawyers are working only for themselves, rather than for achieving women’s rights.”*<sup>171</sup>

Besides, our focus groups with college students revealed the hardships facing women who solicit the help of lawyers. They explained that lawyers (both male and female) are not only expensive, but they abuse their power. Fatina, a first-year college student, explained:

*My mother needed to obtain her inheritance rights, and her only way was to go to one of the very famous lawyers. I can’t even start explaining to you how much he used my mother. Not only did he take her money and a large share of the land she inherited from her parents. He made her cook for his wife and bake for them twice a week. He was willing to discuss with her the case only if she met him in his house and helped his wife. I remember, as a child, the way they treated my mother, and how humiliating was it for us. But my father, who is a university graduate, was unable to find a job after being fired from his work in Israel, and my mother had no other choice but to abide by all the requirements the lawyer dictated to get her money and land. By the end of the case, my parents sold him part of the land, just to be able to support the family.*<sup>172</sup>

Lawyers were severely criticized also by women victims/survivors of abuse. They shared many stories of being ill-treated and humiliated. Areen explained: *“The lawyer at the women’s center was very disrespectful to me. She delayed my case, refused to allow me to express my opinion when in the court, and behaved in a condescending manner with me.”*<sup>173</sup>

Women interviewed for this study also shared that their lawyers were not always sensitive to their traumatic experiences or ethical. For example, five women we interviewed stated that lawyers do not always agree to be present when their clients are being heard in the prosecutor’s office, even though it is a woman’s right to have a lawyer present throughout the investigation hearing. A prosecutor said: *“In most of the cases, we request that an attorney be present, but in urgent and dangerous situations, we hear the woman without a lawyer. The report is accepted and taken to court, and then a lawyer will be authorized to join the proceedings.”*<sup>174</sup>

In addition, in one of the femicide cases, we learned from the various service providers who worked with the victim before she was murdered that “her death was a result of the relationship she had with the lawyer prior to being killed.” Similar statements were also made regarding another femicide case, where two sisters were murdered.

Testimonies and interviews that mentioned fear, disappointment, financial, social, and sexual abuse of lawyers were also mixed with narratives that revealed the importance and major help of lawyers. In one case, a

college student explained: *“It was the lawyer who helped us. She was the one who managed to get my mother her rights and forced my father to pay his alimony for my mother after he divorced her to marry a younger woman.”*

Hala, a female lawyer working in a local NGO, noted that female lawyers are not always taken seriously, which affects their ability to intervene effectively. Therefore, as Hala explained: “I make many compromises, and I know this is not right (...) but what is right when any direction we take might harm our client?” Hala shared the difficulties she encounters when she tries to defend women while needing to be attentive to detailed legal requirements such as getting the right forms, applying the proper request to move a woman offender to a different place, coordinating with the Israeli authorities, etc.

Among our interviewees, both women and young college students explained the challenges they face when addressing lawyers. Female lawyers were portrayed in some instances as very professional and supportive; in others, as strict and unsympathetic. Male lawyers were sometimes portrayed as professional, serious but more often as inconsiderate, negligent, and abusive.

### The family at home

In 90% of the 56 cases we examined in our interviews, women’s families did not trust or support their daughters in taking legal action against their abusers, even when they knew that the women were victims/survivors of violence or sexual assault.

*My husband used to beat me with an electric cable. He didn’t take care of me even during the delivery of our child and he used to disappear to avoid paying the hospital bills. My brother-in-law used to have to pay for the hospital instead, and he told my family that I should get a divorce because my husband behaved so inhumanely, and that he would end up killing me one day. Once my husband beat me on my eye, and I couldn’t see for a week because it was swollen. My mother saw this and said she did not want him around anymore; but my brothers didn’t want me to leave him, because they believed that a woman shouldn’t be divorced but should suffer and be patient. Eventually, after the last problem, my brother decided to arrange a divorce for me from my husband without even consulting me; I felt like an animal without any idea. We went to the court, and I was divorced. My husband paid me 1,500 dinars, but my brother took the money and only gave small amounts to me each time I wanted to buy something, while he took a large share of it. After my divorce, I lived with my family for a year and a half, during which period I was exposed to all kinds of insults from my brothers and their wives. That’s besides the beatings they would give me for no reason. I hate my brothers, because they also used to beat me when I was a child. They accepted a marriage proposal on my behalf [against her will] from my second husband, who was 66 years old when I was 19. They wanted to get rid of me, and they agreed without asking me. They even told me that I should send my sons to live with their families; I sent them and I couldn’t see them for seven years. I got married and I continued to be beaten by my family and by my husband’s family. His big son used to beat me,*

171 Interview in March, 2013

172 Focus group meeting.

173 Focus group meeting.

174 Interview in March, 2013.

*until he broke my hand, and once he beat me on the head and I ended up at the hospital. The hospital transferred me to a Social Affairs Unit, which took me to a Family Protection Unit. I filed a complaint against my husband's sons, and they were arrested for 24 hours. When the police saw my situation, they transferred me to the safe home.<sup>175</sup>*

Of all the cases explored for this study, there were only eight in which one or more family members supported the victim in her legal actions, such as the following:

*I was 14 when my uncle brought me to the West Bank from Gaza. A big problem happened in my parents' home that led my uncle to call the police and the Social Affairs Unit. Coordination was done between the Israeli side and the police unit in Bethlehem. They made for me residency statement, I went to Erez in Gaza and the Social Affairs Unit took me because my father raped me. I was with my little brothers at home, my mother went out, I made a cup of tea for my father (...) he raped me (...) my older brother found out, beat my father, and called the police. My brother told my uncles, but they called me a whore and said that they wanted to kill me. But my brother and my mother's brother prevented them and said that I was the victim. I then became pregnant from my father. They transferred me to the Qureish Institute in Bethlehem.<sup>176</sup>*

We found in similar cases that women were saved from being killed when one or more male family members supported the female victims/survivors in the family. But as we also saw in the above case, not all the family members were willing to protect the 14-year-old abused girl; some chose rather to stand with the father. Such reactions were frequent in cases where the assault was perpetrated by a family member. This is particularly concerning when taking into account that nearly all the perpetrators in these assaults are close family members, as one shelter coordinator pointed out: "Ninety percent of the cases we deal with involving women threatened to be killed are committed by their brother or uncle."<sup>177</sup>

In the focus groups with female college students, it was clear that families play a major role in helping, defending, blaming, attacking, abusing, or killing female victims/survivors or women seeking to access the justice system. The students shared various stories of mothers who stood up against the victim's brothers and fathers and also revealed numerous cases of uncles or aunts calling the police and demanding a family member's arrest. Maysa, a 20-year-old college student, shared this striking story:

*I recall very vividly the discussions in our house, when my uncle used to abuse his wife, preventing her from visiting her family in Hebron. One day, following the death of his wife's mother, my uncle hit his wife viciously because she was crying hysterically. He pulled her by her hair, threw her out onto the street, and she kept screaming, crying, and calling for her dead mother to come save her. She was screaming at her dead mother: 'Why did you force me to marry him?!' My uncle went crazy: he picked up a piece of wood from the street and started beating her*

*with all his strength, while his young kids ran screaming and crying, begging him to stop. At that point, my grandmother called the police, telling them to come. It took them a while to arrive, but when they came, my grandmother, who confronted my uncle, told the police to arrest him because 'he hit the mother of his children.' She later testified against him in court, and everyone in the family held great respect for my late grandmother. She was known as a fair woman, and she made us all strong, intelligent, and fair like her. Even my father, a man, kept on telling us this story.<sup>178</sup>*

Maysa's story reveals the pivotal importance of family support during episodes of abuse. However, most of the narratives we heard indicated that the opposite is more typical: families often abandon their women when they are most in need. One focus group participant summed up the situation in a way that reflected the heated discussions across all the focus groups: "The family is the number one obstacle for women to access justice." Others explained: "Families are part of this society, and they see abuse everywhere. But they believe that if they separate themselves from social problems and exclude troublemakers from their lives—particularly if the troublemakers are women—they will have a better life."

Young women also explained that access to justice is denied when religious preachers speak against women's rights to a dignified life, including their right to choose their husbands. They also explained that women's access to justice is severely hindered in cases of sexual abuse; not because families fail or refuse to help, but because it is very stressful, embarrassing, and difficult for families to deal with sexual abuses. The college students recommended that the state and the community should build a strong support system for families facing such abuses, otherwise female victims/survivors will end up paying the price with their lives.

## The courts

*The workers at the courts treat women with mockery and a sense of superiority, and this demeaning behavior imposes psychological effects on women when they approach the court.<sup>179</sup>*

In this study, female victims/survivors and those in conflict with the law, female lawyers, social workers, human rights defenders, and men who deal with cases of VAW and personal status law all stressed the same point as the above quotation. They explained to us the hardships facing women when they reach the court, whether the civil or the Shari'a court. Some women and NGO workers said that women were more able to negotiate for their rights in the Shari'a courts; because men were usually able to solve their personal status matters outside the court (through divorce, for example), women would usually approach Shari'a courts.

Our interviewees shared stories of women being mistreated or disrespected in the courtroom, including by judges, court personnel, and police officers. In contrast, when judges gave attention to female witnesses, or

175 Interview on March, 2013.

176 Interview in February, 2013.

177 Interview in June, 2013.

178 Focus group meeting.

179 Focus group interview in June, 2013.



refused to tolerate any misbehavior by family members, lawyers, prosecutors, or police officers, the women's conditions were improved and their confidence in the process was increased.

The questionnaire responses and the documents analyzed also raised the importance of differentiating between the Shari'a courts and the civil courts. The Shari'a courts address cases of divorce, child custody, visitation, and payments for divorced women. The civil courts deal with cases of sexual assault, violence, and death threats.

In the Shari'a courts, there are efforts by a committee to reconcile the abused and the abuser, even when the woman has been severely beaten. According to one of the social control representatives who worked in the Shari'a courts:

*The legal system does not and will never understand women's rights, or the hardships and issues facing women... besides, the way lawyers look at women, the way they deal with them, the amount of money and expenses that are exhausting to women—all these factors make women feel as if they have failed to achieve their objectives.*<sup>180</sup>

Another interviewee related:

*The judge always prefers to take the reconciliation direction without considering the nature of the case (...) the legal system is not developing (...) it is a pity that there is no law for girls who are daughters of single women, or girls without a father (...) if the mother is known, why can't they just register her under her mother's ID card?*<sup>181</sup>

Furthermore, not one woman interviewed said that she appreciated the court's efforts for reconciliation.

It is also important to mention that most of the legal sentences are not implemented, and often the requested compensation is never paid to the victim. According to the director of the Alimony Fund:<sup>182</sup> "Ninety three percent of alimony verdicts are not implemented; only 7% are implemented. We have around 1,200 cases every year."<sup>183</sup>

As a result, most of the women in the study said that they deeply regretted approaching and going through the legal system. They all agreed that, if they could go back in time, they would never have entered the legal system.<sup>184</sup>

One of the findings in the research is that the mentality of the judges at the Shari'a and civil courts and their discretionary powers deeply affect women's access to justice. Patriarchal decisions result in severe violations of women's rights and lack of respect to due process, as one respondent explained:

*The individual judge's mentality and discretion is the most decisive factor in the case, not the professional or the legal factors (...) there are degrees of empathy according the type of case. The most difficult cases are those of physically abused women (...) with which the laws do not help. Add to that the fact that the legal system does not help women in general, and abused women can be returned to face assault again and again.*<sup>185</sup>

180 Interview in March, 2013.

181 Interview in April, 2013.

182 Sondook Al-Nafaqah

183 Interview in June, 2013.

184 We will expand on this theme later in the report.

185 Interview in June, 2013.

## Shelters

There are only three women's shelters in the West Bank: one in Bethlehem, one in Nablus, and one in Jericho. These shelters are meant to protect women in distress, women who are under the threat of being killed by their families or husbands, and women and girls from being raped or sexually assaulted. There are various ways to send women to the shelters, including self-referral, but most of the cases are referred by the Ministry of Social Affairs (MOSA) district offices, the FPU, and women's organizations. Occasionally, women are referred also by governors or tribal leaders, or brought in by neighbors, or extended family members, or guardians.

As a feminist activist explained:

*Shelters were newly established in the Palestinian area, and only in the last 10 years or so shelters started developing specialized services to address women's needs when unprotected and in danger. The various shelters do not operate in the same manner, and there are no nationalized standards and regulations.*<sup>186</sup>

Women respondents discussed the various shelters in different ways: Some shared stories of how the shelter addressed their needs and supported them; others expressed severe frustration and anger towards a shelter's operations.

Generally speaking, for women, being in a shelter is a very harsh and frustrating situation. It means being away from their family and their social milieu and facing societal and community suspicion, stigmatization, and ostracization. Women who had been in shelters shared their sense of insecurity and uncertainty regarding their future and their fate. Additionally, interviewees explained that shelters are not culturally acceptable; yet the shelters were the only sanctuary for women who were under threat and in imminent danger.

A major result that emerged from our interviews of social control agents (such as lawyers, prosecutors, social workers) was that female respondents did not favor the use of shelters and feared sending victims/survivors/ to shelters. It is possible that even discussing shelters made the women interviewees very anxious because of the pronounced social stigma they carry. It could also be due to their wish to protect women victims/survivors/ from such ostracization or even their own professional experiences with shelters. As one prosecutor explained: "In some places, shelters are better than in others. In our area, we have Mehwar, and they are trying their best to attend to women's needs, mainly in offering them economic empowerment and more."<sup>187</sup>

Two abused women expressed frustration with these shelters, because they said there was nothing to do there except watch television, clean the rooms, and eat. The women felt that the stays at the shelters were boring, and there was nothing they could do to improve their life conditions.

186 Focus group meeting.

187 Focus group meeting.



*I'm feeling depressed; I can't believe that my son Majd died.<sup>188</sup> I don't talk to anybody. I am always in my room holding a picture of my son, crying and smiling at his clothes (...) I just sleep, eat, and clean my room. The safe home gave me a lawyer and security, and the officer...[is] helping me to prove the father's paternity.<sup>189</sup>*

Also:

*The only thing I do today is to eat, drink, and sleep. I want to leave this safe home, to work and get my money by myself. I want to raise my daughter (...) At the safe home, we don't do anything except eat, sleep, and watch TV.<sup>190</sup>*

An issue that emerged in various interviews with both women victims/survivors and social control agents is women's freedom while in the shelter and later when she decides to leave the shelter. A feminist activist explained:

*During the stage of integration (once the woman in the shelter recovers from trauma, feels safe, and has received social and legal counseling, and is thinking of the future), a dilemma arises. From one side, we realize that we should respect women's decision to leave the shelter and take care of her life and be free. From the other side, the social worker's evaluation that detects vulnerabilities that might jeopardize the victim's life once she is released from the shelter. I realize it is the woman's choice to leave, and the shelter legally has no authority to hold her, yet, it is true that when there is no support system and no protection in society, women will most likely be re-victimized."<sup>191</sup>*

Another interviewee stated: "If, for example, a woman files a complaint in the criminal court, the procedure is so lengthy that by the time she is ready to leave the shelter, she ends up legally unprotected, while her perpetrator is enjoying his freedom and left unpunished."<sup>192</sup>

The fact that shelters hold some women for prolonged periods (about two or three women in each shelter)<sup>193</sup> whose lives are not under immediate threat of death, rape, or other offenses creates further hardships and denies women access to a free life. According to some interviewees, keeping a large number of women in the shelter could help the institution continue to receive funding. As one lawyer said: "I know a woman who has been kept there for four years for no reason (...) the woman has begged the shelter to release her, as there would be no longer any threats on her life and no one will harm her (...) She wants to get out and begin her new life, to work and to be independent."<sup>194</sup>

In several cases, we saw that when a woman entered a shelter, the custody of her child went to the father or to the "children's house," such as in the case of M.:

*I went to the court at the beginning of my divorce, the Shari'a court and the administrative court, then to a "family protection institute," then to the Family Protection*

188 Her son Majd died due to a severe illness he had since birth. He was taken from her immediately after his birth, because he was considered an "illegal" child – born out of wedlock.

189 Interview in February, 2013.

190 Interview in February, 2013.

191 Focus group meeting.

192 Focus group meeting.

193 This information is according to a lawyer at ICHR.

194 Interview on March 2013, 27, in Ramallah.

*Unit of the police and the Social Affairs Unit. I finally won the divorce and the custody of my daughters, but they were taken from me when I entered the safe home.<sup>195</sup>*

Such incidents discourage women from filing complaints against their husbands or other abusers for fear that they could lose custody of their children once they enter the legal system or the shelter. In other cases, the Shari'a courts, with the support of the shelter's lawyers, social workers, and psychologists, came up with innovative sentences that allowed female victims/survivors of violence to gain financial rights and custody of their children, even in cases where they were not entitled to these rights by law. The Shari'a court supported such decisions with social reports that found that the children's best interest is being with their mothers, given the father's history of violence toward his family.

### **Prisons and centers for correction and rehabilitation for women**

Although we could not interview women being held in prison, we learned about their experiences at the Correction and Rehabilitation Centers (CRCs) from various lawyers, judges, prosecutors, NGOs, and women who were released from prison. According to our interviews, the CRCs can do a great deal of damage to women rather than rehabilitating them. We were also informed about the poor conditions in which women live, including poor nutrition, unsanitary bathrooms, and the denial of requests to fulfill basic needs, such as new clothing and underwear.

The interviewees mentioned cases of women who spent more than three to four years in prison without ever being given an official sentence; some women even stayed for seven years. These cases occur due to the difficulties that the legal system faces in the complicated political environment, such as restricted movement within the West Bank, having to receive permits from Israeli authorities to enter Areas C, H1, and H2, and the overall dysfunctional nature of a system existing under occupation.

According to a member of the prison management:

*We have 20 to 30 cases in four units, most of which are for murder and petty crimes. The women's prisons are separate from the men's. Some of the women are sentenced; others are not. For example, in Jericho prison, there are 12 prisoners, 10 of whom are sentenced, but two of whom still are not. The women's prisons are located in Jericho, Jenin, and Ramallah (...) the difficulties that we are facing revolve around the pace of the legal proceedings: an arrested woman can remain in prison for four years without a sentence, as her innocence needs to be proven by witnesses, which greatly slows down the whole process.<sup>196</sup>*

It was apparent from the data that lawyers had serious problems representing women in the court.

195 Interview in March, 2013.

196 Interview in April, 2013.

### III. Main themes of analysis

In this section, we will present the results of our analyses of the various paths and stages in the justice system elaborated in this report.

#### The law

All of the interviewees—women, prosecutors, directors and workers at NGOs, and managers and workers at shelters—agreed that Palestinian laws regarding the rights of women were outdated and obsolete. As one lawyer stated: “The biggest difficulty we face in our work is the system of ancient laws that is still being implemented in women’s cases. We are even talking about the penal law, which permits beating as a form of discipline.”<sup>197</sup> Another lawyer stated: “Fifty years have passed since the [establishment of the] Jordanian penal code of 1960, which is implemented in the West Bank, in addition the Jordanian personal status laws of 1976. These laws are not appropriate today.”<sup>198</sup> Furthermore, according to one prosecutor: “The deficit is in the law; the law is still based on the old Jordanian penal code of 1960. Jordan has already changed this law, but here [in the West Bank] the law is still the same. The law lacks articles for new issues in society, such as articles forbidding sexual harassment (...) there is no law to protect girls and children from these acts.”<sup>199</sup>

The law also contains various stipulations that make violence easy to perpetrate without punishment, such as the fact that a person must file a complaint within three months of the incident, after which he or she does not have the legal right to do so. The biggest problem with this is that, if a woman was subjected to bodily abuse for many years and could not approach the police because she did not know the procedures or could not go for any other reason, then she would not be able to submit a complaint once the three-month limit has passed.<sup>200</sup> Furthermore, according to Palestinian law, in order for a case to be prosecuted, the period of physical and bodily disability caused to the woman by violence perpetrated against her must be at least 10 days. The law makes it seem as if women’s lives must be at risk in order for them to receive proper legal attention and protection.

In some cases, women, NGOs, and lawyers also faced difficulties in proving incidents of rape because of the different legal articles that could be manipulated against the victims/survivors. For example, if a girl or woman could not “prove” that she did not agree to a sexual relationship with a family member who raped her, then according to the law, she would be guilty of incest and charged for the same offence as the person who raped her.

#### Between the Gaza Strip and the West Bank

The Gaza Strip and the West Bank have two different legal systems, and women pay the price for that difference and for the spatial fragmentation imposed by Israeli occupation policies.

*There is a story that I like to tell, because it was a case from the central region of Palestine that lasted many years. A woman was married in the Gaza Strip, and she had two girls before the family split between Gaza and the West Bank. She was expelled from Gaza by her husband and his family, who took the couple’s 2 small children, aged 5 and 6. The woman came to the West Bank and filed a complaint for alimony and child custody at the same time that the split occurred. The executive authorities in Gaza did not accept the decision that was made in the West Bank, and so she went back to Gaza and litigated the case again. She won, but she could not take the children because the father would be unable to visit them if they went with the mother. Two different laws for one case, in one state. The age of child custody in Gaza, as based on Egyptian law, is different from the law in the West Bank. We are talking here about how the political split is affecting cases and their legal process. The slowing down of the legal process can affect the case, as happened with this woman: by the time she gained the right to take her children, the age of custody had passed. So she won the case, but it became irrelevant and unhelpful to her. I know that six organizations worked on that case, and political and national personalities also tried to help, but until today she is still in Qalqilya [West Bank] and her children in Gaza.*<sup>201</sup>

#### The stigma

*The woman is stigmatized from the first moment she enters the legal system.*<sup>202</sup>

In all the interviews we conducted for our research, including the students’ focus groups, women expressed regret for their decision to approach the legal system. Some used the word “scandalous” to describe how they felt from the moment they entered the premises of the FPU or the police units. For example, these units are located around active hubs or prominent places in the communities, making the women who are seeking help very visible in the public realm. This prevents many women from attempting to approach or enter these institutions. “The difficulties and the obstacles for women are the social attitudes towards divorced women, which prevent them from living an easier life. There is a distorted reputation attached to women who attend the courts.”<sup>203</sup>

#### Fear and regret

*There is a fear among women to go to court, because they heard the experiences of other women. There is no secrecy or privacy in the courts or in the prosecutors’ offices.*<sup>204</sup>

Women also expressed regret for approaching the legal system, because when they sought punishment for the abuser, such as the husband, and had him imprisoned or investigated, they lost their rights to have a ‘safe home’, alimony, and respect and help from society. If the man was not imprisoned, he would return home, marry another woman, and make life more difficult for

197 Interview in April, 2013.

198 Interview in June, 2013.

199 Interview in March, 2013.

200 This data is according to one prosecutor we interviewed in April, 2013.

201 Interview in May, 2013.

202 Coordinator of the “Alimony Fund.”

203 Focus group interview in June, 2013.

204 Focus group interview in June, 2013.

the abused woman. Women mentioned that during the investigation process, they would always be informed by investigators about what they stood to lose by imprisoning their husbands. This led many women to compromise and cancel their complaints; but the husbands might still divorce them during the investigation period, and the women would be left to re-enter the world homeless and facing an unknown fate.

*A lot of women are afraid of their brothers when they want to file a complaint (...) there are a lot of women afraid of asking for divorce, wondering what will happen to them after the divorce, and what their status will be in society. Women who have been beaten by their husbands are afraid throughout every stage of the legal process. They never stop thinking about their fate: they are afraid of their family, afraid of losing their children, and afraid of society's attitude.*<sup>205</sup>

Women thus did not trust the legal system because they found it unproductive and damaging when they, a friend or a family member attended it. As one lawyer said:

*Part of the difficulties I face in my work is that many women fear being confrontational [with their family members] (...) they come and authorize me to start the legal process, but after two days, they cancel it because people interfere and pressure the women, especially in cases of violence, to abandon her rights. I know that the women's situation is very difficult and they are afraid to ask for their rights to their inheritance...For example, I followed an inheritance case of a woman for four years who was expelled from her village by her brothers.*<sup>206</sup>

When asked what they would do if they went back in time to the beginning of the process, all the women interviewed for this study said that they would not have entered the legal system. All of them said that they would rather stay in their homes and bear the torment from their abusers than go through the justice system. One woman, Sama'a, said: "If I went back in time, I would stay with my children, even if my husband killed me. I would rather die from him beating me than have to leave my children."<sup>207</sup> Another woman commented:

*If I went back in time, I would be more patient with my husband; more patient with his long stays away, more patient with his lack of responsibility. I shouldn't have gotten a divorce; divorce is a catastrophe (...) the social attitude towards the divorced woman is a stain.*<sup>208</sup>

The statements express the women's feelings of insecurity, unfairness, and fear around a legal system that is supposed to make them feel safe, be treated fairly, and achieve a sense of justice.

### **The masculine mentality women face throughout the judicial process**

According to the various interviewees, chauvinistic behavior and patriarchal values permeate every stage of a woman's journey through the judicial system.

The Palestinian penal code: The law includes various articles that empower and privilege masculine and patriarchal attitudes and behaviors over women's lives.

The workers in the legal system: The women felt that the workers in the various legal institutes (lawyers, police men, prosecutors, secretaries etc.) were themselves very masculine and were not making sufficient efforts to help or protect them. This was clear in their discussions about the lawyers, for example:

*Most of the information I received was through the lawyer (...) but each time he told me it requires a long procedure in the court (...) the lawyer had the time to deal with the slow court, the case still stands in the same place, and I still haven't received the expenses for my girls and I did not get a place to live.*<sup>209</sup>

The informal legal agents: The informal legal agents are tribal personalities and dignitaries, the family's "well-respected men," religious figures and the governor; all of whom use their authority to empower men and weaken the status of women. "The tribal persons ruined all my ambitions," said one woman. "Everything I ever did, they destroyed. They oppressed me when they took all my rights, including my daughter and my money, without leaving me anything."<sup>210</sup>

We found that in various cases, especially those involving physical abuse from husbands, which led to divorce, child custody, and alimony, male dignitaries from both sides of the family tried to intervene and resolve the situation by convincing the woman to return to her home, to be tolerant and patient, and to endure the suffering for the good of her children. The women in these cases expressed negative opinions towards these dignitaries, who always took the man's side without understanding the feelings and suffering of the women.

In addition to the interventions of family dignitaries, we found that regional governors, whether they belonged to Fatah, Hamas, or the Popular Front, also interfered in family affairs, especially in cases of sexual assault:

*There were religious figures who came, and one of them was a member of the legislative council, he was a leader in Hamas...in the beginning he intervened and resolved my problems, but in the divorce case, because of the sensitivity between Fatah and Hamas, and my father is affiliated with Fatah, he was only involved from a distance. He told my father he should help his daughter and he would receive God's blessings because of it. He was a great man, but he felt that he had to keep his distance because my father was opposed to his involvement (...) There was also my cousin, who was my sister's husband and a member of Fatah. He told my brother that he should trust and support me because I was his sister.*<sup>211</sup>

In such cases, women paid the price for the political fragmentation of the West Bank. We also found that the tribal personalities did not interfere in cases of sexual harassment and assault, but they did interfere in cases of bodily abuse. This indicates a scenario in which sexual

205 Interview with a lawyer in May, 2013.

206 Interview in March, 2013.

207 Interview in March, 2013.

208 Interview in March, 2013.

209 Interview in March, 2013.

210 Interview in February, 2013.

211 Interview in March, 2013.



issues are seen as the responsibility of the government, as if sovereignty over women's and men's bodies belongs to the state, not society.

### Commuting of cases

In 11 cases, we found that the sentence for the perpetrators' crimes did not comply with those stipulated by law. This is because the legal system accepts social influence to achieve compromises, such as in cases where a father rapes his daughter or a brother kills his sister:

*One case that came to my attention was a case of incest, a rape committed by a father and brother against a 17-year-old girl as she left the safe home (...) the father and brother were imprisoned for one year, but I felt that there was no justice: how is it her fault to be taken out of the home? We reached a solution with her uncle and her mother's brother to house her at the uncle's home in a distant place (...) In the beginning, the mother didn't believe the girl's story and asked her to stop talking about it. After that, she was a witness in the court.<sup>212</sup>*

One NGO worker commented:

*Sometimes the cases are commuted by the lawyers according to their interest. For example, a young man who sexually harassed three girls in his family [his nieces] has been in prison for a year (...) a plea bargain was made to give the girls money if they dropped their right to press charges, but I decided that there will be no place for bargaining. If one of the girls had reached the legal age for sexual relationships, the judge's sympathy for the girl would be much lower.<sup>213</sup>*

In cases where women are seeking a divorce, the husband can make threats against his wife's life or the welfare of their children in order to force her to abandon her rights, thereby turning a case for divorce and child-support costs [Nafaqah] into a family dispute. But even if the woman does compromise, the law is supposed to provide a woman protection from her husband's threats, which would in turn give her the confidence and security to refuse unjust compromises. In reality, however, this is not the case.

*The law is unjust and unfair (...) the legal committee always tries to divide the fault equally among both spouses; once they even said that it was the woman's fault that she went to her parents' home without asking her husband. Even though she was beaten and violated and her husband always told her to 'go away,' the judge considered it to be appropriate speech and behavior (...) the case is transformed from a rift and dispute to a case of deposition, so that the woman is forced to pay all the dues for receiving a divorce.<sup>214</sup>*

Furthermore, according to a coordinator of one of the police's FPU's:

*Very few cases are registered as rape and most of them are instead categorized as 'sexual abuse.' The number of rape cases in the legal system doesn't exceed 10 (based on the data we collected when conducting the research), but the cases of sexual abuse and sexual assault are numerous.<sup>215</sup>*

212 Interview in April, 2013.

213 Focus group with NGO workers, June 2013.

214 Focus group interview with NGO workers, June, 2013.

215 Interview in April, 2013.

This method of commuting offenses is a way of exploiting the deficiencies in the law in order to benefit the rapist. Turning the man's serious crime into a case of sexual harassment absolves him of punishment, because there is no law in the Palestinian penal code that applies penalties for sexual harassment.

### Personal relations

*There is a manipulative and masculine approach in dealing with women's cases. I went to the police, to the hospital, and to the court (...) my husband had connections at the police station. They took his statement first, and left me sitting alone for four hours (...) The guard then came to write my statement, but he ended up deciding what my statement would say.<sup>216</sup>*

In more than 8 cases out of the 56 studied, the legal process was expedited if one of the disputants had good connections with the police or authorities. For example, one woman was able to get a divorce from her husband because her brother worked in the security services. The case was completed in one month instead of several months or years as was the norm. In another case, the husband had a friend who was a policeman, and they were able to trick his wife into granting the husband child custody.

Relations between authorities and perpetrators are very detrimental to women's cases throughout their legal process, as A.Z. recalled: "The judge sympathized with my husband and his family because he was from the same extended family. He was against me in everything."<sup>217</sup> In another case, a woman's family members had connections in the Palestinian Authority, which helped to influence the legal process:

*My brother holds a respected position in the Palestinian Authority. He could apply pressure and threats, so my husband divorced me quickly and I received child custody after three court hearings. I couldn't take my rights such as my dowry or the house though; I went to live in my family's home, and there the suffering began.<sup>218</sup>*

### Accessing the legal system if the abuser is the husband, not the father or brother

In our research, we found that girls used marriage as an escape from their fathers' or brothers' physical abuse. After marriage, they became an object of further abuse by their husbands, after which they decided to access the legal system for help, especially after severe physical abuse. The issue here is that the perception of the fathers' and brothers' abuse as "normal" or "acceptable" prevents many young women and girls from approaching the legal system to protect themselves. Legal protection is seen by many Palestinian women as something that should not be considered when it comes to violence within the family. Furthermore, there is a Palestinian law that could be interpreted as permitting fathers to beat their children as a form of discipline or punishment. This theme is an example of the interconnectedness between patriarchal abuse in society and the legal patriarchal practices that Palestinian women face.

216 Interview in February, 2013.

217 Interview in February, 2013.

218 Interview in March, 2013.

## Women's lack of knowledge of regulations, laws, and legal protection

In almost all the cases we studied, women did not know what their legal rights were. Information about their rights would usually come to them by chance from a lawyer, relative, or another woman who had been through the legal process. One NGO worker said: "There is a kind of knowledge-sharing dynamics among women in the court halls. You can see them helping each other by explaining various issues and explaining their rights to one another."<sup>219</sup> The lack of knowledge of legal details led women to sign papers without knowing or understanding their meaning or significance and to believe the erroneous or false statements made by others. Furthermore, in some cases, lack of legal knowledge caused women to pay a very high price, such as losing their right to custody. We noticed that the various centers and associations for legal protection and consultation provided these women with some knowledge of the legal system, such as which centers to go to or what type of legal aid to use if they are physically abused or sexually abused or harassed. However, these consultants did not help women in the later stages of her case, when she had to face rigid bureaucratic institutions filled with men holding patriarchal beliefs. Furthermore, almost all the interviewees mentioned the absence of lawyers during questioning and document signing this process.

In this study, we found that women only became aware of their lack of knowledge when it was too late, after they had already passed through significant stages in the legal process. For example, one woman shared that her lack of understanding of the law "caused me not to differentiate between child custody and visitation"<sup>220</sup> regarding her children's welfare. "One obstacle for women in accessing justice is her lack of knowledge of her rights."<sup>221</sup> In the circumstances where there is lack of women's legal awareness about their rights and procedures, the presence of lawyer during the process of interrogation becomes even more crucial.

## Endless process and open-ended scenarios

Most of the cases that we studied have not been concluded; there were still no final rulings. A divorce case or a case over child custody takes longer than a year. In most of the cases, women did not know what the fate of their case would be, and they had no idea what was going on or what should be done. They expected their lawyers to continue taking responsibility for their case, but most said that they did not trust the lawyers because they felt that they were misusing or abusing their power and the women's situation for financial gain.

Our main conclusion is that, regardless of whether the case involves physical abuse, cases of divorce and child custody are an extremely long and painful process for women, who are filled with uncertainty and despair throughout the legal proceedings because they do not understand their rights, the process, or if they can expect any positive outcome by accessing the courts.

<sup>219</sup> Interview in Jerusalem, June 2013, 27.

<sup>220</sup> Interview in February, 2013.

<sup>221</sup> Interview with social worker at a Social Affairs Unit in May, 2013.

## Financial delays

*An obstacle in accessing justice is the lack of financial support. The question is how a woman could take that step if the justice system costs money and needs financial cover. The families almost never support their daughters, and so they have no financial support.*<sup>222</sup>

Through the women's stories, we found that the financial issue is one of the main factors that delay the access to justice. Women have to track down their husbands in order to receive their alimony, and the payment of the alimony is decided by a court decision. Men could delay the woman's attendance in court and ask for the help of a lawyer to get the expenses. These paths to justice and the legal services required cost women more money than they would receive from their husbands. Women have to pay a fee for submitting a complaint, and they have to pay for the witnesses they bring to the courts, including their transportation costs. Women have to pay even more money if they live in Area C and have to attend a court hearing, whether it is occasional visits or regular visits of at least once a month.

In cases of physical injury, women also have to get an expensive medical report. If they cannot pay, women cannot receive the report and the whole legal process is impaired. "One of the challenges that women face today is the importance of the medical report in the legal process and the investigation process (...) the women's inability to receive it is often because it can cost more than 90 [New Israeli] shekels."<sup>223</sup> According to one lawyer:

*Even if there are visible injuries, she needs the medical report from the Health Ministry. It is not free, and not all women have the ability to pay for the report that proves that she was exposed to violence. It costs between 50 to 150 shekels; for some women, this is a huge amount of money, especially women who are not financially independent.*<sup>224</sup>

Women sometimes preferred to turn to a private lawyer because the lawyers that the court designated for them worked very slowly. As a result, the women had to pay more than they received from the alimony. As one woman said:

*I married my cousin when I was 16. I have four boys and one girl. With each problem that I had with my mother-in-law, my husband used to beat me, even for ridiculous reasons. Once he beat me and I lost consciousness and my ability to hear. I filed a complaint to the police and requested expenses. For each sum I received, the lawyer would take some from it. I left my house and rented a home for 8 months. My husband began to threaten that he would take my daughter from me. I compromised because I wanted to keep my daughter with me, and because the court didn't do anything to help me. Some people intervened and I compromised on everything; I went back home with his second wife because he promised to give me some money. I have diabetes, and the money he gives is not enough.*<sup>225</sup>

<sup>222</sup> According to the director of an NGO for women in the West Bank.

<sup>223</sup> Interview in April, 2013.

<sup>224</sup> Interview in June, 2013.

<sup>225</sup> Interview in June, 2013.

Some women noted that when a woman goes to the Social Affairs department to ask for financial help, the aid ends up going to her husband. One interviewee recounted:

*I received a verdict for expenses, but the implementation was very slow and the amount of money was very little. The delay in implementing the court decision caused the woman to pay more than she received. [The time it takes to] evaluate the amount of money for the alimony and to implement it is itself an injustice to women.<sup>226</sup>*

The research revealed that, because men have the money to pay for the legal procedures but women do not, men can manipulate the justice system to absolve them of serious consequences and instead impose punishments on the victimized women. The next story demonstrates this:

*There was a case of two sisters who were sexually assaulted by their father several times (...) The case was exposed through the pregnancy of one of the girls, who was not aware of what was happening because she suffers from mental handicap. She didn't understand the meaning of pregnancy or her menstrual cycle. It was only when she had the labor pains that the family knew, and she was taken by the Social Affairs Unit with the baby. The girl suffered from shock and lost her ability to talk, and yet she was arrested for incest even though they knew she suffers from mental handicap. Even the other sister was mentally handicapped ; they have never been to school. They were arrested longer than the father because he had money for a lawyer but the girls did not. We transferred them to a women's center. One of the girls suffered from liver inflammation because she wasn't exposed to the sun when she was in prison, and that is aside from the fact that she was not given appropriate medical treatment. I'm talking about the period in 2006 when there was security chaos and the government offices were destroyed. They were in prison for two – and-a-half years. We tried to reach a deal with the justice system for the girls to be released and transferred to a safe home (...) they spent a period of time there, but the medical condition of one of them became worse and they went back to their family.<sup>227</sup>*

In this story alone, we can see the various factors preventing women from receiving legal protection and justice: financial issues, the chauvinism of the father, the daughters' lack of knowledge, the prejudice of the law, the commuting of the case, and the punishment of the victims/survivors instead of the perpetrators.

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226 Interview in June, 2013

227 Interview with a lawyer in May, 2013.



## Discussion and Conclusions

The current justice system is insufficient in addressing women's and girls' access to justice in occupied West Bank. A counter system should be developed to prevent further rights violations. For Palestinian women, access to justice cannot be achieved by locking up a few abusers or even by strengthening the official criminal or informal justice system. Ensuring adequate access to justice requires addressing the effect of settler military occupation on individuals and communities in the territory.

The voices shared and lessons learned in this study indicate that ensuring proper access to justice for Palestinian women and girls requires political organization that centers on women's perceptions of, and experiences with, justice in the context of the occupied West Bank. Such a solution focuses on challenging and transforming society as a whole in order to reject and condemn violation of women's and girls' rights. As a result, society provides alternative and efficient solutions for women and girls who are victims/survivors of violence, or who are attempting to use the justice system to exercise their rights.

The problem of dealing with access to justice and violence against women (VAW) in the context of military occupation and a protracted political conflict is that access to justice and VAW is not simply a tool of male and patriarchal control, but it is also a tool of political dispossession, economic oppression, discrimination and occupation. The condition of Palestinian statelessness in which VAW is situated must be recognized as one of the primary causes of endemic violence. It is only in linking VAW with the political context that we can strategize and design anti-violence policies and movements. Strategizing on ways to open women's access to justice cannot be separated from the hegemonic power imposed by the Occupying Power, the violence between the occupied and the occupier, and the internal violence that arises among the occupied themselves. Strategies for women's access to justice must therefore be linked to all Palestinians' access to justice, including their fundamental rights to security, a safe home, education, economic independence, freedom of movement, and more.

Furthermore, the legal and criminal justice systems exist within the social context and under the gaze of Palestinian society. As a result, women who approach these institutions, especially the police and the FPU, are highly visible in their communities, and this affects their social status and transforms social attitudes towards them. This stigma and labeling of women prevents many from seeking help from the formal and informal systems and leads them to feel that they cannot trust or rely on the formal or informal laws or on the justice system as a whole.

As an initial starting point, we recommend making the police stations, the FPU, the courts and judges, and the prosecutors' offices less visible to the wider public by locating them in areas removed from the main hubs of

towns and villages, in order to protect women socially before helping them legally. We further believe that the criminal justice system's personnel should: 1) Be better trained and become sensitive and attentive to address women's and girls' rights to access justice; 2) Preserve utmost confidentiality in cases involving female victims/survivors and women in conflict with the law because of the potential social consequences for those involved; and 3) Establish a mechanism of punishment for members of the criminal justice system who violate clients' confidentiality and/or who re-victimize women victims/survivors of violence seeking access to justice. It is impossible to allow a so-called justice system to continue while its members are not trusted by their clients, not working according to the most basic professional and ethical rules, and not observing fair trial standards and due process rights.

The results of this study show clearly that in many cases, anti-violence messages, trainings, and activism in the West Bank strengthened the technical work and technical functioning of the justice system. We realize the importance of procedural justice and technical expertise, but this alone is not sufficient to ensure that women's rights to access justice are protected. Interviewees commonly described some of the NGOs that have recently been established in the West Bank, including hotline centers and human and women's rights organizations, as primarily preoccupied with presenting papers to ministries and international experts who are neither acquainted with the local dynamics nor directly impact them. In this study, by contrast, focus groups with young women and the analyses of prosecutors' statements revealed stories of NGOs, lawyers, social workers, and government employees failing to address women's urgent needs and concerns, while instead focusing on technical details such as collecting certain types of evidence, finding the suitable legal code, or reaching the proper police officer or political leader. Interviews with service providers validated these young women's perceptions and prosecutors' statements and revealed that service providers and NGOs are predominantly focused on building "good connections" with the police, the prosecutor, the district attorney's office, governors, and other actors involved in the justice system.

Moreover, while the anti-violence messages and trainings organized by various Palestinian NGOs did help open a public discussion on women's access to justice, they simultaneously and paradoxically strengthened Israeli control over Palestinians' movement and accessibility to legal, health, and social services. This is because every time a call was made to the Israelis to approve someone's access to and within Area C in a VAW case, the need to justify the request and the time and energy it required weakened Palestinians' capacities, exposed them to Israel's security questioning, disclosed women's conditions to untrustworthy sources and, as more than half of the social control agents whom we interviewed explained, deeply diminished the efficiency of the already dysfunctional criminal justice system. It also empowered the internal Palestinian patriarchal system that favored using informal social control agents, who are mainly males, and using the masculine tribal system; and, in

turn, promoted Palestinian male power over women.

The study revealed that the various mechanisms available to women to gain access to justice in fact serve the interests of an occupying, politically male-oriented system that allows only a few steps to be taken, but many others to be omitted. This process also strengthens the internal male-oriented justice system, because access to justice was conducted based on pre-existing socio-legal models that do not take into consideration the context, needs, and aspirations of Palestinian women in today's world. The information shared in this report suggests that the endless hours of trainings and strategies used by police, prosecutors, and judges only end up empowering the status quo and those in power within that system — not the women whom the system is meant to serve.

Conclusions related to the specific data gathered about Areas C and H2 revealed that these areas are where the most egregious injustices and violations of the women's rights of women and girls occur, and where abuses and mistreatment of women and girls are the most widespread. Our findings indicate that the main obstacles women and girls in Areas C and H2 face when they attempt to access justice are:

1. No Man's Land: Generally speaking, Areas C and H2 do not fall under anyone's authority and do not 'belong' to anyone. Women and girls are thus seeking justice in what can be described as a "No Man's Land."
2. Structural insecurity for women: Neither the PA, the Israeli police, nor the criminal justice system in these areas, is capable of securing women's bodily safety and rights. This condition keeps women at the mercy of internal and informal systems of social control, such as the tribal, religious, or other communal systems.
3. Inaccessibility of response units: Even the FPU, which must act swiftly to respond to emergencies, face serious hardships in reaching Areas C and H2.
4. Non-enforced court decisions: The system is so broken in Area C that even a court order does not guarantee that it will be enforced.
5. Fragmented families: Palestinian women from the area who appealed and requested family reunification with family members who carried a different kind of ID (Israeli or Palestinian) failed to unite with their families. The fragmentation of nuclear families has affected women disproportionately, furthering their dispossession.
6. Impunity for those who carry Israeli IDs: Abused women and girls from Area C were ill-treated: first, because they reside in Area C — a No Man's land; second, because interventions would only be made against an abuser from the West Bank, not against one carrying an Israeli ID. Abusers who carry Israeli IDs are almost always benefiting from impunity. And in the case of perpetrators from the West Bank, only few of

them are arrested and brought to trial..

7. New forms of criminality: Area C has enabled new kinds of male abuse of women and girls, including sex trafficking, drugs, arms dealing.
8. Settler's violence: Settler attacks, including "price tag" attacks of cutting and burning trees, throwing stones at homes and people, scare tactics, and others have created another level of obstacles in women's and girl's faith that they are able to access justice.
9. Land confiscations and home demolitions: The terror of living under constant threat of displacement has worsened the insecurity of women and girls and pushed many women to stay put within familiar social groups, even if they are abusive. Thus, concerns related to the loss of land and residential shelters have restricted women's opportunity to move freely, as well as their perception that they can actually/appropriately access justice.
10. Complex military structures: Living under constant uncertainty in a highly militarized area where women have minimal or no security has eroded the community's basic ability to support its own. This has also decreased the ability of the courts and the police to respond to women in a free manner.

Several key observations can be made from these findings. First, the failure of the justice system to assist and help young women at an early age is resulting in their ongoing victimization and/or delinquency and drift. This failure has led some young girls and even women to seek out alternative sources of help, such as using Information Computer Technology (ICT). This use or misuse of ICT, such as Facebook, text messages, and phones to connect with friends, call for help, look for relationships, and search for ways out of oppression and domination was found to be helpful in some cases, but devastating and very risky in others. Therefore, we highly recommend a focus on the youngest girls (those using technology, ages 10-18) to help them navigate their way out of the challenges they face when living in a spatially restricted community under military occupation while going through their own developmental stages and the socio-economic and political hardships facing their communities. Empowering girls and working with them at an early age, as young respondents explained, is one of the most important preventive measures. This work should go hand in hand with educational work with their parents and schools. The study shows that when teachers and parents were understanding and supportive, they served as a psychosocial buffer to girls in distress. This calls for serious attention to preventive measures.

Second, women cannot have effective access to justice when the criminal justice system focuses mainly on heavy police involvement, harsher prison sentences, evidence gathering, while failing to take into consideration the effect of such interventions and policies on women's lives. All these strategies enlarge the prison-industrial complex, which is already a highly complex system. The

political circumstances in the West Bank do not allow for effective national Palestinian management of the criminal justice system, and almost all its agencies are dependent on political and geopolitical interests and restrictions, external funders/ agendas and preferences, and the approval (direct or indirect) of the Israeli Civil Administration. Rather, we recommend working with the PA's system workers, its ministries' officers, and Palestinian civil society members to be aware of their interventions when addressing women's and girls' access to justice. Training PA officials on a women-centered and gender sensitive approach to the administration of justice can enhance their understanding and attentiveness to girls' and women's needs and prevent officials from further violating (by omission or commission) these victims/survivors' rights to safety and justice.

Third, the NGO sector's treatment of women facing abuse as "clients" looking for services, rather than as partners in ending violence and advocating social change, is another hurdle that needs to be overcome in ensuring women to have access to justice. Our interviews revealed that representatives of NGOs see women as "ignorant others" instead of as knowledgeable actors who should be consulted in the same way as women consult with legal practitioners and psychosocial workers. We recommend that NGOs engage with women and girls, not as "clients," but rather as partners.

Fourth, the use of strict anti-crime agendas among criminal justice and legal representatives, including the reliance on legal jargon, legal tools, bureaucratic procedures, and legislation while turning a blind eye to each victim's socioeconomic and geopolitical context turns access to justice into an overly technical process. These technicalities prevent many abused women we interviewed from asking for help. Furthermore, the technicalities and bureaucratic process created apprehension between victims/survivors and service providers and prevented them from filing complaints at a sufficiently early stage. Many women victims/survivors dropped their charges, and some even found themselves in prison accused of misleading the criminal justice system or engaging in "illegal activity." In many cases, public prosecutors see the social context and take it into consideration, but they decide on behalf of women what their best interest will be. At the center of their decisions is the family unit, but not necessarily the female victim's interests or her safety. We recommend that criminal justice personnel focus on women and girls' right to access justice, to safety, and security; while negotiating legal jargons and legal tools, using them when possible, and challenging them when abiding by legal procedures could harm women and girls. It would be a great step to allocate a yearly prize to criminal justice personnel who protected girls' and women's rights. Starting the process by gathering success stories might be a good educational message to law enforcement agents.

Scholars who study VAW among native communities around the world pointed out that criminalization of violence and abuse against women has not led to a decrease in VAW or to improved access to justice for women. We raised the same question of whether

criminalization of VAW might help Palestinian society to promote women's access to justice. The study's results do not offer simple answers or solutions, but rather suggest various paths to improving the situation, including alternative models of intervention suggested by Palestinian women. These models include making committed efforts to engage with and help women at an early stage and searching for internal community-oriented interventions that prevent the labeling of women as "victims/survivors" or "perpetrators". Labeling women results in women's exclusion from accessing justice. An additional model suggested by young and college-aged women interviewees in this study was to organize women in the family, community, and grassroots organizations politically to collectively conceptualize and advocate for innovative approaches for women's access to justice. To this end, interviewees suggested to include health and mental health professionals, socio-legal professionals, and even engineers and geographers in this collective organizational effort. The analysis revealed that in Palestine, to address women's access to justice, there must be political organization of women that can take into consideration the fractured geography of the West Bank (due to spatial restrictions such as check points, the Barrier, and Areas C, H1, and H2). Health professionals also need to be trained to communicate the societal effects of VAW and of impeding women's access to justice, including the impact on the family's and society's welfare and psychosocial conditions, with all that imply for human development.

When UNDP identified the six stages of access to justice, the first stage they recognized was legal protection, which is the provision of legal standing in formal or traditional law. Legal protection constitutes the legal foundation for all other stages in the process. All women interviewed in this study expressed their feelings of being completely unprotected. The other interviewees, including the legal system workers and the NGO workers, also agreed that Palestinian women are not protected by the law or by society. If this situation is ever to be changed, the first step that must be taken is to change the manner in which the law is implemented, and the very substance of the law itself. The Palestinian legal system in its current unfair form, especially with regards to several legal provisions related to violence against women, excludes Palestinian women's voices and turns them into subjects of control by male authorities who have the power to decide whether they deserve to live or to die. The structure in which the law functions—the military occupation—and the highly oppressive system in which the law must adapt and navigate, makes justice inaccessible to women. The way the law addresses women's safety and security is very lenient on perpetrators, particularly fathers, brothers, and husbands who kill, beat, or rape their daughters, sisters, or wives. Securing women's access to justice requires broader analysis as to how each factor—be it the criminal justice system, the law (including family law), government regulations, or bureaucracies—could work hand in hand to safeguard women's rights. The failure to map the means through which all these components play out in the process is greatly jeopardizing women's collective well-being, and thereby, the well-being of the



next generation of Palestinians, whether male or female.

UNDP's second stage is legal awareness. This study showed how little women, social control agents, and law enforcement personnel (police, FPU, lawyers, judges, and informal social control agents) knew about girls' and women's legal rights and the legal processes they were attempting to navigate. This lack of knowledge is partly a result of the ever-changing regulations, the inability to apply the law and lack of due process, and the absence of efforts by lawyers and NGO workers to educate and raise public awareness about these issues, especially through the educational system. Those women who were aware or partially aware of their rights usually had a relative who was a lawyer or who was able to research legal information to assist them. In very few cases did we find a lawyer in the court or in an NGO who made an effort to provide women with detailed explanations on the applicable legal framework or legal proceedings. We recommend constructing public information campaigns that inform the public not only about women's and girl's rights, but also on the complexity and problems embedded in the system itself. Such awareness can help women victims/survivors become better equipped to advocate for themselves and keep them also at the center of any intervention, despite the complex geopolitical and socio-legal context.

The study's findings revealed that Palestinian girls' and women's access to justice must be spearheaded by women's own initiatives to counter violence within the family, community, and political levels. (For a model of how this might be done, see, for example, the Nairobi Declaration in Appendix D.) Geopolitical/military restrictions were found to be a major obstacle preventing women from accessing courts. Suggesting new pathways for Palestinian women in the West Bank to access justice and addressing VAW must take into consideration Israel's occupation of Palestinian land and life, and the historic and systemic violence perpetrated against women and dispossession of their communities. Women's access to justice must therefore offer new modes and strategies for transforming society and the political environment in which they live.

In this study, we have argued that Palestinian women in the occupied West Bank have fallen between the cracks of militarized patriarchal control and internal indigenous patriarchy. They suffer from the dysfunctioning of civil rights and retributive legal reforms and claims that denounce violence against women, an unstable semi-state justice system that intends and claims to criminalize and imprison victims/survivors rather than the perpetrators; inadequate legal texts and bureaucracies that discriminate against female victims/survivors and those who are in conflict with the law; a restorative justice system that seeks to slow the criminalization of male perpetrators; and a very complicated and uncertain politico-legal system that imposes spatial and political restrictions on Palestinians seeking to access the justice system. The spiral effect of the violation of women's accessibility (or rather, their inaccessibility) to justice indicates that the justice system that operates in the studied area is, in fact, closed to women. From our analysis, the strategies used

by local prosecutors, social workers, lawyers, and women activists appear to be driven by a desire to adhere to abstract bureaucratic procedures and legal technicalities imported from other places where military occupation does not exist, rather than embedded in the condition of occupation and appreciative of the intersection of military occupation, violations of the most basic rights such as the right to freedom of movement and education, mundane oppression and demonization, patriarchy, poverty, and women's own violence. The examination of modes of sentencing and the practice of law reveals a societal failure to recognize and address the extent to which Palestinian women's lives are highly endangered within their own communities.

Our study suggests that the logic and politics of inaccessibility to justice continue to structure Israel's power over Palestinians and reproduce patriarchy both within and upon Palestinian society. We further believe that one needs to engage with a more complex understanding of Palestinian women's access to justice; as individual women living in a complex context, which includes the community and the quasi-state (i.e., the Palestinian Authority). We believe and recommend that feminist policymakers and activists should reconsider laws, bureaucracies, and other related intervention strategies and look at the limits of the law.<sup>228,229,230</sup> This was apparent in the reactions obtained by the persons interviewed in the present study to the innovative sentencing by the Shari'a court, and their impression that if the law restricts the court, the court can look for modes of supporting women while keeping women's safety at the center of their work. If the criminalization and victimization of women is erased from political debates, and if interventions are made without historical understanding or contextualization, then women will continue to be denied access to justice. Therefore, applying an analytical framework understood within the context of the occupation to examine women's access to justice as a gendered, structural condition of violence could help combat the systematic violations of women's rights.<sup>231</sup> Entrapping women in an apartheid state to face the consequences of destruction resulting from the occupation and from patriarchy, as the results of this study pointed out, keeps justice out of the women's grasp—or, as the title of this report suggests, keeps women in a state of "access denied."

As to proposing concrete actions for stakeholders, we strongly recommend the following:

1. Young girls' vulnerability should be part of any gender-sensitive training about girls' and women's access to justice. Their young age requires that women NGOs urgently develop mechanisms to give them administrative, legal and psychological support as soon as possible.

228 Smart, C. (1989). *Feminism and the power of law*. London: Routledge.

229 Snider, L. (1994). Feminism, punishment, and the potential of empowerment. *Canadian Journal of Law and Society*, 104-75 ,9.

230 Snider, L. (1998). Understanding the second great confinement. *Queen's Quarterly*, 46-29 ,(1)105.

231 See also Balfour, G. (2008). Falling between the cracks of distributive and restorative justice: The victimization and punishment of Aboriginal women. *Feminist Criminology*, 120-101 ,(2)3.

2. The various institutes of the Palestinian Authority should develop administrative, legal, social, economic, and psychological specialized services for women seeking to have access to the justice system.
  3. Directors of the various Palestinian social and formal systems should promote multi-agency cooperation with them in order to adequately respond to women's and girls' needs.
  4. The chain of justice should be routinely examined as a whole to ensure that women who are trying to access justice do not at any stage face barriers or intimidation or punitive consequences from any side for attempting to access justice. That would be practiced by identifying and choosing cases and examine the process these women followed in their search for access to justice.
  5. Social control agents, be they official or non-official, should also take into consideration the various vulnerable individuals involved in the studied cases. The study reveals that in some cases, women who needed physical protection received it, but their children's safety, including from sexual abuse, was left unaddressed. The protection of one woman should never be secured at the expense of other VAW cases. A holistic case-management approach has to be applied.
  6. Case management by workers and officers working on a given case, could support women's and girls' access to justice, including by promoting the development of a Victim Impact Statement (VIS) to be used in the court.
  7. Professional reporting to the court by social workers and psychologists, (social and psychological examinations) about women's situation in shelters, prisons and in other places should become a standardized practice aiming to enable women's access to justice.
  8. A woman's initial call for assistance in a VAW case should involve immense efforts from the part of stakeholders, to enable a smoother and more secure access to justice for women and girls. Follow-up inquiries into new cases should be common practice among stakeholders involved.
  9. In femicide cases, including for women who are under the active threat of being killed, the following measures should systematically be taken:
    - a. Conduct a holistic case analysis by formal and informal systems' agents including professionals and activists, to protect women's lives and maintain their safety in their own community to the extent possible.
    - b. Hold perpetrators accountable to the full extent of the law. Certainty of punishment might deter future violations of women and girl's access to justice. This step begins by conducting changes in several unfair laws.
- These changes are within the responsibility of the judicial system agents. (See, for example, the Nairobi Declaration in Appendix D.
- c. Prevent situations where legal proceedings in VAW cases become lengthy. Women and girls should not be imprisoned without a detention order or held in shelters against their consent for prolonged periods. This is the PA's responsibility, and the persons in charge should be held accountable and sanctioned when such cases occur.
10. Health professionals, police officers, educators, community activists, and family members, should be trained to increase awareness of the intricacy of accessibility to justice in the geopolitical context of the West Bank. Such awareness should stress the importance of rejecting stereotypical beliefs about women and girls, and preserving their best interest first. Training should be conducted by feminists and human rights activists that hold women victims/survivors at the center of their work and intervention.
  11. Social workers and other social control representatives should activate community-oriented potential resources to allow abused women and girls to remain in their communities and instead remove the abusers – keeping them away from victims/survivors.
  12. The Shari'a court's positive and gender-sensitive efforts to promote women's and girls' access to justice should be supported by the state institutions and criminal justice system.
  13. A gender-sensitive monitoring system, including participatory observations inside the civil court system and the District Attorney's office, should be set up. This should be followed up by gender-sensitive training for judges, prosecutors, and lawyers. In this regard, we recommend strengthening the experience of the Observatory on VAW, established within the Independent Commission for Human Rights (ICHR).
  14. It appears necessary to introduce rules and procedures enabling individuals to file a complaint and ask for compensation against any state official (Governors, police personnel, FPU, prosecutors, social workers, lawyers or any NGO representative) who hindered their ability to access justice, or caused them any harm and abuse. Such rules might decrease the rampant abuse of political connections to abuse power in many cases, but especially in cases of domestic abuse.
  15. The PA should set up an oversight function to monitor interventions by tribal and other informal religious and community parties to ensure that their interventions are in alignment with facilitating, instead of preventing, women's access to justice. Interventions that jeopardize

women's access to justice should be prohibited.

16. Lawyers should be trained by professionals, to raise their awareness on gender-related issues, especially on women's rights, international human rights standards and due process
17. Civil society organizations, as well as formal officials, must be aware of the role that ICT (Information and Communication Technology) plays in promoting, hindering, and/or interfering with women's and girls' access to justice, and in even furthering crimes against women and girls. We therefore suggest that additional training should be given to these stakeholders on the matter.



# Policy Recommendations

This study highlights five main analytical and policy-oriented models for understanding and improving Palestinian women’s access to justice within the West Bank. These models are detailed below. These five models are interrelated, and all of them situate women and girls at the center of the analysis, intervention, and legislation.

## A. Female-centric approach

Placing females at the center of analysis, intervention, and legislation has three major implications.

- First, helpers and other social control agents must remain cognizant that Palestinian female victims/survivors are trapped in a cycle of geopolitical and bio-political violence that is enmeshed with an extremely complex and dysfunctional socio-political context in the West Bank. Such violence has fragmented families and communities and weakened the social fabric of support that would normally exist. Any attempt to intervene in this situation must be informed first and foremost by such awareness.
- Second, social control agents such as officials, legal personnel, professionals of the criminal justice system, and welfare/hotline and NGO affiliates should turn to women (including young girls) as the main sources of knowledge regarding the meaning and experience of seeking access to justice. We suggest that female victims/survivors, potential victims/survivors be consulted when analyzing the justice system. Decision makers should first learn from women’s experiences and stories and then base the formulation of new regulations on these voices. They need to develop gender sensitive regulations that contain information obtained from women survivors who have undergone the meanders of the justice system. Judges, prosecutors and police officers should then be trained on how to apply these regulations when dealing with sexual assault cases.
- Third, our findings indicate that women victims/survivors who know the applicable legal framework, their rights and their options, despite all the obstacles they have faced in their search for justice, manage to avoid or circumvent the cycle of legal and patriarchal oppression in the justice system. We recommend that NGOs and women’s associations produce a manual for women and girls which can assist them during legal proceedings. These NGOs and associations should also be made aware that they will be held accountable for negligence, inaction, or abuse of power.

Keeping women victims/survivors at the center of every intervention and making sure that their physical and psychological safety as well as their socio-economic security are safeguarded, and not the “family’s unity” and

“honor” remain the highest priority; we believe that this can help improve Palestinian women’s and girls’ access to justice in the occupied West Bank.

The best interest of women and girls when approaching the justice system that functions in the West Bank context, is to operate simultaneously in one or more of the following models as follows:

## B. Community-based model

The community, as we define it, includes three main societal segments:

- Workers in the formal criminal justice system (including workers at family courts—Shari’a and church courts, the forensic medicine system workers)
- The victim’s social circles, including family members, schools educators and administrators, and health system professionals
- Relevant NGOs, including women and feminist NGOs, in the West Bank.

This model requires all these segments to cooperate for the benefit of women’s access to justice. NGOs and formal institutes should recognize the interconnectedness of the formal and informal legal systems that operate in the West Bank, and should therefore be adaptable and aware of protecting women’s rights according to the circumstances of each case.

## C. The Palestinian Authority (PA) and Israel model

This model views the Palestinian Authority as primarily responsible for raising the problem of women’s access to justice, including VAW, as one of its top social and political priorities. The PA should also be held accountable in cases of abuse and misconduct within the justice system. The PA should confront the ways in which women’s access to justice is denied by Israeli security policies and Israel’s militaristic system of control. Within this model, the PA should seek international intervention in cases where the PA’s accessibility is prevented by Israeli restrictions, such as in Areas C, H1, and H2. This intervention can be part of the next international and UN Women model.

## D. International and UN Women model

This model requires that the UN and other international organizations look for ways to challenge the denial of Palestinian women’s access to justice in the occupied West Bank. This model should address questions of how international intervention could be useful in this context, what further strategies can be applied, and how UN agencies can contribute. International interventions, whether by the UN as a whole or by UN Women, should always be focused on girls’ and women’s rights in the unique context of the occupied Palestinian territory. Clearly, the UN should prioritize areas such as C and H1 where spatial restrictions and conflicting paths to justice make justice the least accessible to Palestinian women

who live there.

#### **D. The multi-systems model**

This model envisions cooperation between Palestinian local formal and informal systems and international organizations such as UN Women. For example, UN Women can provide advice based on this and other studies, and the PA should in turn examine and integrate those recommendations and generate new discourses on the treatment of women who attempt to access the Palestinian justice system in the West Bank. These changes should include the:

- Palestinian legal system
- Structures and agents of the formal system
- Treatment of women when they approach the FPU
- Services provided by the police
- Services rendered by forensics

This process should take into consideration the important role of the informal system in certain types of cases, and should not deny its benefits for those who wish to use it. The cooperative work of these different systems will help facilitate these changes and help counter the patriarchal system that discriminates against women. This can be further assisted by workshops and meetings organized by external organizations such as UN Women.

#### **E. Research model**

The present study has exposed the urgent need to conduct further research on the issue of Palestinian women's access to justice. The role and responsibilities of all stakeholders involved in the justice system should be examined more in-depth in order to analyze the quality of services they are currently providing and to determine how they could be improved. We hope that the research methodology outlined and used in this study will help inspire other similar studies, which, in turn, will help improve Palestinian women's access to justice in the occupied West Bank.

# Appendix A: Laws

## According to the Jordanian Penal Code no.16, year 1960, applicable in the West Bank.

### Article 292: Rape

1. Any person who has forced sexual intercourse with a female, other than his wife, shall be sentenced to at least five (5) years of temporary hard labour.
2. The sentence shall not be less than seven (7) years if the victim is less than fifteen (15) years of age.

### Article 293: Rape of a Vulnerable Female

Any person who has forced sexual intercourse with a female, other than his wife, who cannot defend herself due to a physical disability, a cognitive impairment, or as a result of any form of deception, shall be sentenced to temporary hard labour.

### Article 294: Sexual Intercourse with a Female under Fifteen (15) or Twelve (12) Years of Age

1. Any person who has sexual intercourse with a female that is under fifteen (15) years of age shall be sentenced to temporary hard labour.
2. The sentence shall not be less than five (5) years if the victim is less than twelve (12) years of age.

### Article 295: Sexual Intercourse with a Female between Fifteen (15) and Eighteen (18) Years of Age

1. Any person who has sexual intercourse with a female who has reached fifteen (15) years of age, but is less than eighteen (18) years of age, and is an ascendant, whether legitimate or not, step-father, the husband of the paternal grandmother, or the caregiver of the girl, shall be sentenced to temporary hard labour.
2. The same penalty shall be imposed if the perpetrator of the act is a clergyman, or a director of a public office, or an employee therein, who commits such an act by abusing the power or privileges granted to him.

### Article 296: Attacking, by Violence or Intimidation, the Honour of a Person

1. Any person who attacks the honour of another person by using violence or intimidation shall be sentenced to at least four (4) years of hard labour.
2. The sentence shall not be less than seven (7) years if the victim is less than five (5) years of age.

### Article 297: Attacking the Honour of a Vulnerable Person

Any person who attacks the honour of another person, and the latter cannot defend themselves due to a physical disability, a cognitive impairment, or as a result of any form of deception, or forces the latter to commit such an act, shall be sentenced to temporary hard labour.

### Article 298: Attacking, without Violence, the Honour of a Person

1. Any person who attacks, without having recourse to violence or intimidation, the honour of a child, whether a boy or a girl, who is less than fifteen (15) years of age, or forces the said child to commit such an act, shall be

sentenced to temporary hard labour.

2. The sentence shall not be less than five (5) years if the victim, whether a boy or a girl, is less than twelve (12) years of age.

### Article 299: Attacking the Honour of a Person between Fifteen (15) and Eighteen (18) Years of Age

Any person mentioned in Article 295 above who attacks the honour of another person, whether a male or a female, who has reached fifteen (15) years of age but is less than eighteen (18) years of age, or forces the latter to commit such an act, shall be sentenced to temporary hard labour.

### Article 300: Aggravating Circumstances

The penalties for the crimes provided for in Articles 292, 293, 294, 296 and 298 shall be increased by one-third (1/3) to one-half (1/2) if the accused is one of the persons mentioned in Article 295 above.

### Article 301: Aggravating Circumstances

1. The penalties for the crimes provided for in the Articles of this Chapter shall be increased by one-third (1/3) to one-half (1/2):
  - a) If two persons committed the crime in order to overcome any resistance by the victim, or if the victim was successively attacked by the perpetrators.
  - b) If the male victim contracted a venereal disease, or if the female victim lost her virginity as a result of the crime.

2. The sentence shall not be less than ten (10) years of hard labour if the victim dies after the commission of one of the abovementioned crimes, provided that the perpetrator did not intend to cause such an outcome.

### Article 302: Abduction

Any person who abducts, by using a ruse or coercion, another person, whether male or female, and escapes with the abducted person to any place, shall be sentenced to:

1. A prison sentence of two (2) to three (3) years, if the abducted person is a male and has not reached fifteen (15) years of age;
2. Temporary hard labour, if the abducted person is a female;
3. Hard labour for a period of no less than five (5) years, if the abducted person was a married female who has reached, or not reached, fifteen (15) years of age;
4. Hard labour for a period of no less than ten (10) years, if the abducted person, male or female, was raped or attacked;
5. Hard labour for a period of no less than ten (10) years, if the abducted person was a married female, who has not reached fifteen (15) years of age, and who was sexually assaulted;
6. Hard labour for a period of no less than seven (7) years, if the abducted person was a married female, who has reached fifteen (15) years of age, and who was sexually



assaulted.

#### **Article 303: Release of the Abducted Person**

A prison sentence for a period of one (1) month to one (1) year shall be imposed upon the abductor if they voluntarily release and return, within forty-eight (48) hours, the abducted person to a secure place, provided that the abducted person was not subject to any attack to their honour or reputation, or any other act that amounts to a crime or a misdemeanour.

#### **Article 304: Seduction**

1. Unless a harsher sentence is deserved, a prison sentence for a period of three (3) months to one (1) year shall be imposed upon any person who deflowers a virgin, who has reached fifteen (15) years of age, after promising to marry her. The perpetrator shall also guarantee her virginity.

2. The following elements constitute admissible evidence against the accused: a confession made by the accused before the inquiry judge or in court; or, the existence of letters and other relevant written documentation.

3. A prison sentence for a period of no less than three (3) months shall be imposed upon any person who incites a woman, married or not, to leave her residence and take up with an unknown man, or attempts to separate by corruption the said woman from her husband to break the marriage bond.

#### **Article 305: Unwanted Sexual Contact**

A prison sentence for a period not exceeding one year shall be imposed upon any person who engages in unwanted sexual contact with:

1. Another person, male or female, under fifteen (15) years of age; or,
2. A woman or a girl, who has reached fifteen (15) years of age, but without their consent.

#### **Article 306: Indecent Acts and Words**

A prison sentence for a period up to six (6) months, or a fine not exceeding twenty-five (25) Dinars, shall be imposed upon any person who exposes a boy who is less than fifteen (15) years of age, or a female, to indecent acts or words.<sup>232</sup>

### **Chapter VIII**

#### **Crimes and Misdemeanors against Human Beings**

##### **Chapter I**

#### **Article 340: Excuse**

1. A husband who surprises his wife or a close female relative in the act of adultery with another person, and kills, injures or harms either of them, or both, shall benefit from a mitigating excuse.
2. The perpetrator of a killing or an injury shall benefit from a mitigating excuse if he surprises a spouse, ascendant, descendent, or sibling with another person in an unlawful bed.

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<sup>232</sup> See <http://corpus.learningpartnership.org/jordanian-penal-code-no-16-of-1960-selected-provisions-relating-to-women-2-title-vii-offences-against-public-ethics-and-morality-chapter-i-offences-against-honour>.

# Appendix B: Semi-structured Interviews used in this study

## 1. Interview with women

### Arabic version

بعد المقدمة العامة عن البحث مثلا:

”شكرا لك لموافقتك على اجراء المقابلة معي. مهم لي ان اوضح ان الهدف الاساسي للبحث هو فهم وادراك قصص النساء حين تدخل بخيارها او رغما عنها الجهاز القضائي بما في ذلك كل الصعوبات والاشكاليات التي تواجهها وكذلك كل العوامل الميسرة لها.“

الأسئلة الأساسية (من كل إجابة يجب اشتقاق أسئلة إضافية حسب الإجابة)

سيرورة القضية (تاريخها)

1. إحتكي لي عن قصتك التي أوصلتك إلى (المحكمة، الملجأ، السجن...)
2. هل توجهت لجهات رسمية؟ لمن؟ كيف؟ وماذا حصل؟
3. ما هي المؤسسات الرسمية التي تدخلت (برغبتك أو رغما عنك) خلال مشوارك حتى وصلت إلى هنا؟
4. من المهم أن نسأل لماذا برغبتها ولماذا رغما عنها؟
5. هل توجهت لجهات غير رسمية؟ لمن؟ كيف؟ وماذا حصل؟
6. ما هي المؤسسات الغير رسمية التي تدخلت (برغبتك أو رغما عنك)؟
7. ما هي الصعوبات التي واجهتها خلال مشوارك؟
8. ما هي العوامل التي كانت ميسرة أو سهلت سيرورة القضية؟
9. هل كان دور لعائلتك في كل مجريات الأحداث؟ ما هو؟ إحتكي عنه بالتفصيل؟
10. هل كان دور لرجال الدين؟ إذا نعم: ما هو؟ صفيه بالتفصيل
11. هل كان دور لمؤسسات حقوق الإنسان؟ إذا نعم: ما هو؟ صفيه تفصيله
12. ماذا كانت مصادر معلوماتك حيال قضيتك؟ هل بحثت عن معلومات؟ أين؟ لماذا احتجت للبحث؟
13. هل كانت معلومات مهمة لم تعرفي عنها وكانت حاسمة؟

حال القضية اليوم:

1. أين تقف قضيتك اليوم؟
2. صفي لي وضعك الحياتي اليومي حاليا!
3. هل من مؤسسات رسمية أو غير رسمية تدعمك أو تصعب عليك اليوم؟
4. هل أنت مدركة لحقوقك اليوم؟ إذا نعم: من اين حصلت على المعلومات؟ وإذا لا: لماذا لا؟ وماذا تبحثي أو تجتهد للوصول لكل المعلومات؟
5. لو عاد بك الزمن إلى الوراء ماذا كنت تودين أن تخبري: بنفسك وبتعاملك مع ذاتك؟ بأداء المؤسسات الرسمية والغير رسمية؟ بالعائلة والدين والمجتمع؟

### English version

After the general introduction about the research, for example:

“Thanks for your agreement to be interviewed by me. It’s important for me to clarify that the main goal of this research is to understand and to recognize the women’s narratives when they enter by choice or by force to the legal system, including the hardships and the problems that they face and the factors that make this process easier”.

The main questions (must derive additional questions from each answer according to its content):

The case process (its history):

1. Tell me about your story that brought you to the (court, shelter, prison ...).
2. Did you go to formal organization? To whom? How? What happened?
3. What were the formal organizations that interfered (according to your will or by force) during your journey until you arrived here?
4. Important to ask why she was willing to accept the interfering or why it was by force?
5. Did you go to informal organizations? To whom? How? What happened?
6. What were the informal organizations that interfered (according to your will or by force)?
7. What were the hardships you faced during your journey?
8. What were the factors that made the case process easier?
9. Did your family have a role during the events occurrence? What was this role? Tell me about it in details?
10. Did the religious personnel have a role? If your answer is yes what was their role? Describe it?
11. Did the human rights organizations have a role? If your answer is yes what was their role? Describe it in details?
12. What were your information resources regarding your case? Did you search for information? Where? What did you need to search for it?
13. Were the information important that you didn’t know about, hence it was crucial?

The case status today:

1. Where does your case stand today?
2. Describe your day-to day-status currently?
3. Are there any formal or informal organizations that support you, or making it harder on you today?
4. Are you aware of your rights today? If the answer is yes: where did you get the information? If it is no: Why you didn’t or aren’t looking or making effort to reach information?

5. If time goes back, what would you like to change: in yourself and in dealing with yourself? In the formal and informal organizations performance?

## 2. Interview with legal system workers (lawyers, judges, prosecutors, police officers)

### Arabic version

استمارة مقابلة للعاملين/ات في الجهاز القضائي (محامي، قاضي، وكيل نيابة، شرطي)

بداية نشكرك على المساهمة في هذا البحث من خلال موافقتك على إجراء هذه المقابلة.

نود بداية أن نتعرف عليك أكثر من الجانب المهني: (مكان وسنوات التعليم، سنوات الخبرة وأماكن العمل، مكان السكن ونوع القضايا التي عمل بها على مدار سنوات العمل)

1. إحك لي عن عملك اليوم بالتفصيل
2. ما هو دورك في إيصال المرأة للعدالة؟
3. ما هي تجربتك بالعمل في قضايا النساء (نطرح كل نوع على حدة ونسال عن تجربة العمل به مثلا التجربة مع الجانيات السجينات، مع المهمدات بالقتل، مع المختصات...ونطلب تفصيل عن العمل بكل نوع)
4. ما هو رأيك بالجهاز القضائي الفلسطيني من ناحية تعامله مع قضايا تخص النساء؟
5. ما هي التحديات التي تواجه القضاء اليوم بقضايا النساء؟ (مع التفصيل بكل نوع)
6. ما هي الصعوبات التي تواجهك في عملك اليوم في قضايا النساء؟
7. أين ترى مسؤوليتك ومسؤولية الجهاز الذي تعمل به من القضايا التي لا تصل للعدالة؟
8. لماذا يتم إغلاق الكثير من ملفات النساء خاصة في حالات الاغتصاب والتهديد بالقتل؟
9. كيف ترى التفاعل بين مؤسسات المجتمع (القضاء العشائري، مؤسسات حقوق الإنسان، العائلات) وبين مؤسسات القضاء الرسمي؟ نسال عن كل واحد على حدة.
10. لماذا لا يتم عمل تغيير في القوانين المجحفة بحق النساء وأية اقتراحات كنت لتقدم من اجل تحسين موقع المرأة في جهاز العدالة؟
11. كيف ترى اداء البيت الآمن؟
12. ما هو رأيك بملاجئ النساء في المناطق المختلفة؟
13. ما هو رأيك بسجون النساء؟
14. صف لنا مسار قضيتين عملت فيهما مؤخرا (كل قضية توصف على حدة)
15. هل تريد ان تضيف لنا شيئا مهما لم نذكره؟

شكرا جزيلاً على التعاون

طاقم البحث

### English version

First we appreciate your contribution to this research through your agreement to be interviewed.

We would like to know more about your professional side: (place and years of education, years of experience and work places, place of living and type of cases he worked with over the years).

1. Tell me about your work today in detail.
2. What is your role in leading women to justice?
3. What is your experience in working with women cases (present every type of work experience separately for example, experience of working with criminal female prisoners, with women threatened by murder, with raped women.... and ask for details on each type of work).
4. What do you think about the Palestinian legal system and the way it deals with cases related to women?
5. What are the challenges that facing the legal system today when dealing with women cases? (With details on each type).
6. What are the hardships that you face today with women cases?
7. Where do you see your responsibility and the system you work at towards cases that don't reach justice?
8. Why many of women's files are getting closed especially in cases of rape or murder threats?
9. How do you see the interaction between the community organizations (tribal justice, human rights organizations, families), and between the formal legal organizations? Ask about each separately.
10. Why there is no changes in the unfair towards women rights laws, and what suggestion you have in order to improve the woman's status in the justice system?
11. What do you think about the safe home?
12. What do you think about the women shelters in the different areas?
13. What do you think about women prisoners?
14. Describe for us two cases you worked with lately (each case described separately).
15. Do you want to add something we didn't mention?

Thanks a lot for your cooperation.

Research Staff



### 3. Interview with NGO workers

#### Arabic version

أسئلة مسيرة لمقابلة المؤسسات الأهلية

بعد الشرح القصير عن البحث (هدفه: الوقوف على سيرورة المرأة في جهاز العدالة الفلسطيني وفحص أهم المعوقات والامور الميسرة لها. من يموله: ال NTU- nemoW، والهدف من المقابلة: فهم مدى منالية المرأة الفلسطينية لجهاز العدالة والوقوف على ما تواجهه أثناء تعاملها معه. توثيق محطات المرأة في سيرورتها القضائية وكذلك الكشف عن ما تواجهه المرأة الفلسطينية في منطقة C حين تحتاج او تحتك بجهاز العدالة الفلسطيني وفحص خاصية المعوقات لها كونها في منطقة C).

- إحكى لنا عن أهداف المؤسسة وعن عملها خلال الخمس سنوات الأخيرة (يجب التركيز على عمل المؤسسة مع المرأة) ممكن طرح سؤال بديل: من بين الأعمال التي تقومون بها ما هو عمل المؤسسة مع المرأة؟
- ما هي طبيعة عملكن مع نساء دخلت أو لم تستطع دخول جهاز العدالة؟
- ما هو رأيك بمنالية المرأة الفلسطينية في جهاز العدالة؟
- ما هي برأيك الصعوبات التي تواجهها المرأة الفلسطينية أثناء تعاملها مع جهاز العدالة؟
- ما هي برأيك المعوقات التي تمنع من المرأة الوصول لجهاز العدالة وخوض سيرورة عادلة بحقها من خلاله؟
- ما هو رأيك بدور المؤسسات الغير رسمية بتعاملها مع النساء اللاتي تمر بمحطات بجهاز العدالة؟
- ما هو رأيك بنظام العدالة والنظام القضائي الفلسطيني؟
- ما هي برأيك المميزات للنساء التي تقطن منطقة C بموضوع مناليتها لجهاز العدالة الفلسطيني؟
- هل لك أن تحكي لنا بالتفصيل عن إحدى الحالات؟
- هل من تدخل مؤسسات قضائية اسرائيلية ببعض الحالات؟ كيف ولماذا؟

#### English version

After a short introduction on the research (its goal: studying the experience of women through the process of the Palestinian legal system, examining the main obstacles they face and what are the factors that made it easy for them. Who funds it: UN-Women. The aim of the interview: to understand the level of a woman access to the Palestinian justice system, and to learn about what she faces during her interaction with it. In addition to exposing what the Palestinian woman face in area C when she needs or interact with the Palestinian justice system, and to examine the specific obstacles she faces because of her living place).

- Tell us about the organization's goals and its work during the last five years (must focus on the organization work with women), you can ask an optional question: among the work you do what is the organization work with women?
- What is the nature of your work with women who entered the justice system or couldn't enter?
- What do you think about the Palestinian woman's access to justice?
- What do you think are the hardships that a Palestinian woman face when interacting with the justice system?
- What do you think are the obstacles that prevent a woman from reaching the justice system and going through a just process towards her right?
- What do you think about the informal organizations role when dealing with women who go through the justice system stations?
- What do you think about the Palestinian justice and legal systems?
- What do you think are the advantages for women who live in Area C in relation to their access to the Palestinian Justice System?
- Can you tell us in details about one case?
- Do Israeli legal organizations interfere in some cases? How and Why?

## 4. Interview with focus groups

### Arabic version

أستلة مسيرة لمقابلة المجموعات البؤرية

بعد الشرح القصير عن البحث (هدفه: الوقوف على سيرورة المرأة في الجهاز القضائي الفلسطيني وفحص أهم المعوقات والامور الميسرة لها. من يموله: ال-NU، والهدف من المقابلة: الوقوف على ما تواجهه المرأة الفلسطينية في منطقة C حين تحتاج او تحتك بجهاز العدالة الفلسطيني وفحص خاصية المعوقات لها كونها في منطقة C).

الأسئلة التالية توجه لنساء خاضت تجربة التفاعل مع جهاز القضاء والعدالة (تليها أسئلة لمن لم تتفاعل مع الجهاز):

- عرفينا على نفسك (يجب استخدام أسماء مستعارة أثناء التفريغ)
- ما هي قصتك مع جهاز العدالة الفلسطيني؟ او بكلمات أخرى ما الذي جعلك تتفاعلين/تحتاجين/تحتكين به؟
- هل بإمكانك أن تصفي لنا ما هي الصعوبات التي واجهتها خلال مشوارك؟
- هل بإمكانك أن تصفي لنا ما هي الأمور التي يسرت مشوارك؟
- هل كان تدخل للمؤسسات الغير رسمية؟ كيف تدخلت؟ هل انت توجهت أم أنهم فرضوا أنفسهم عليك؟
- هل كان تفاعل مع مؤسسات السلطة؟ كيف؟ وإذا لم يكن لماذا؟
- أين تقف قضيتك اليوم؟
- هل سمعت عن حالات من المنطقة التي تعيشين بها وبرأيك مهم ان نعرف ما مرت به خلال تفاعلها مع جهاز القضاء؟
- هل سمعت عن حالات من المنطقة التي تعيشين بها لم تستطع الوصول للعدالة والقضاء بسبب موقع السكن؟ ماذا حدث؟ وأين وصلت؟
- حين تحدث مشكلة مثل قتل أو سرقة في المنطقة ماذا يحدث عامة؟

الأسئلة التالية توجه لنساء لم تخض تجربة مع جهاز العدالة

- عرفينا على نفسك (يجب استخدام أسماء مستعارة أثناء التفريغ)
- هل بإمكانك أن تصفي لنا ما هي الصعوبات التي تواجهها المرأة اذا احتاجت تدخل الأجهزة التابعة لجهاز العدالة الفلسطيني؟
- حين تحدث مشكلة مثل قتل أو سرقة في المنطقة ماذا يحدث؟ لمن تتوجه الناس؟
- هل تدخل عادة مؤسسات غير رسمية في المشاكل خاصة الجنائية؟ كيف؟
- كيف تتدخل عادة أجهزة الأمن التابعة للسلطة؟
- هل سمعت عن حالات من المنطقة التي تعيشين بها وبرأيك مهم ان نعرف ما مرت به خلال تفاعلها مع جهاز القضاء؟
- هل سمعت عن حالات من المنطقة التي تعيشين بها لم تستطع الوصول للعدالة والقضاء بسبب موقع السكن؟ ماذا حدث؟ وأين وصلت؟
- هل حدث أن إحدى قريباتك احتاجت تدخل إحدى جهات جهاز العدالة؟ ماذا حدث؟

ملاحظة: من المهم جدا الوقوف على السيرورة أي من أين بدأت عبر أي مؤسسات رسمية أو غير رسمية مرت؟ كيف استطاعت التنقل؟ من أي منطقة إلى أي منطقة تنقلت؟ أي محطات القضية/القضايا المطروحة.

### English version

After a short introduction on the research (its goal: studying the experience of women through the process of the Palestinian legal system, examining the main obstacles they face and what are the factors that made it easy for them. Who funds it: UN. The aim of the interview: to learn what a Palestinian woman from Area C faces when she needs or come in contact with the Palestinian Justice system, and to examine the specific obstacles she faces as a result of living in Area C).

The following questions are to be asked to women who had an experience of interaction with the legal and justice system (followed by questions for those who didn't have such interaction):

- Introduce yourself (use fake names in the transcription).
- What is your story with the Palestinian Justice System? In other words what made you interact\need\come in contact with it?
- Can you describe to us the hardships you faced during your journey?
- Can you describe to us the factors that made your journey easier?
- Was there an intervention from the informal organizations? How did they interfere? Did you go to them or they imposed themselves on you?
- Where there an interaction with the PA organizations? How? If there weren't, why?
- Where does your case stand today?
- Did you hear about other cases in the area where you live that you think we should know about their experiences regarding what they went through during their interaction with the legal system?
- Do you about cases in your area that couldn't access justice and judiciary because of their living place? What happened? Where did they go?
- When a problem occurs such as murder or robbery in the area what usually happens?

The following questions are to be asked to women who didn't have an experience with the Justice System:

- Introduce yourself (use fake names in the transcription).
- Can you describe to us what are the hardships faced by a woman if she needs the interventions of the Palestinian Justice System?
- When a problem occurs such as murder or robbery in the area, what happens? To whom people go?
- Do informal organizations interfere usually in problems, especially criminal ones? How?
- How do the PA security systems interfere usually?

- Did you hear about cases in the area where you live that you think we should know about their experiences regarding what they went through during their interaction with the legal system?
- Do you about cases in your area that couldn't access justice and judiciary because of their living place? What happened? Where did they go?
- Did any of your female relatives need the intervention of one of the justice system? What happened?

P.S: It is very important to learn about the process, where did it start, through which formal or informal organizations did she go? How was she able to move? From what area to what area did she move? What are the stations of the presented case\cases?



## Appendix C: Paths to Justice

Case							
1	Interrogation by general prosecutor in Bethlehem	Prison in Bethlehem	Shelter				
2	Interrogation in police station in Qalqilia	Interrogation by general prosecutor in Bethlehem	Prison in Jenin	Shelter in Bethlehem			
3	Hospital In Ramallah	Mehwar	Interrogation in Ramallah by general prosecutor	Prison in Ramallah	Shelter in Bethlehem		
4	Family protection unit in Nablus and was interrogated	Shelter in Jericho	Back to husband	Family protection unit in Jenin and was interrogated	Stayed in custody in Qalqilia and was interrogated	Shelter in another Palestinian City	
5	Police station in Hebron for filing a complaint to military and civil courts	Interrogation by civil prosecutors	Interrogated by military prosecutors	Shelter			
6	Hospital in Bir Saba'a	Israeli shelter for one week	Family protection unit in Hebron – told her story	Shelter			
7	Hospital	Filed a complaint in police station and was interrogated	Ministry of Social Affairs	Shelter in Nablus	Back to husband and isolation	Shelter in Nablus	
8	She was smuggled back from Israel to Bethlehem and was taken to a place where she does not know who they were.	Was taken by those people to police station in Bethlehem and was interrogated	Shelter in Jericho r	Shelter in Bethlehem	Prison in Ramallah for protection	Prison in Bethlehem for protection	Shelter in Nablus
9	Ministry of Social Affairs	Shelter	Back home	Ministry of Social Affairs	Filed a complaint in police station	Back home and legal help from the shelter without the knowledge of her husband	
10	Was interrogated in police station and signed confession	Interrogated by general prosecutor and was shown the signed confession	Prison in Ramallah Released on bail	Ministry of Social Affairs in Bethlehem – not helped	Ministry of Social Affairs in Ramallah – not helped		

# Appendix D: Nairobi Declaration

English version

## NAIROBI DECLARATION

### ON WOMEN'S AND GIRLS' RIGHT TO A REMEDY AND REPARATION

At the International Meeting on Women's and Girls' Right to a Remedy and Reparation, held in Nairobi from 19 to 21 March 2007, women's rights advocates and activists, as well as survivors of sexual violence in situations of conflict, from Africa, Asia, Europe, Central, North and South America, issued the following Declaration:

#### PREAMBLE

**DEEPLY CONCERNED** that gender-based violence, and particularly sexual violence and violations against women and girls, are weapons of war, assuming unacceptably alarming proportions as wars, genocide and communal violence have taken their toll inside and between countries the world over within the last two decades;

**BEARING IN MIND** the terrible destruction brought by armed conflict, including forced participation in armed conflict, to people's physical integrity, psychological and spiritual well-being, economic security, social status, social fabric, and the gender differentiated impact on the lives and livelihoods of women and girls;

**TAKING INTO CONSIDERATION** the unimaginable brutality of crimes and violations committed against women and girls in conflict situations, and the disproportionate effects of these crimes and violations on women and girls, their families and their communities;

**ACKNOWLEDGING** that gender-based violence committed during conflict situations is the result of inequalities between women and men, girls and boys, that predated the conflict, and that this violence continues to aggravate the discrimination of women and girls in post-conflict situations;

**TAKING INTO CONSIDERATION** the discriminatory interpretations of culture and religion that impact negatively on the economic and political status of women and girls;

**TAKING INTO CONSIDERATION** that girls specifically suffer both from physical and sexual violence directed at them and from human rights violations against their parents, siblings and caregivers;

**BEARING IN MIND** that girls respond differently than women to grave rights violations because of less developed physical, mental and emotional responses to these experiences. Noting also that girls are victims/survivors of double discrimination based on their gender and age.

**TAKING INTO CONSIDERATION** the roles and contributions of women and girls in repairing the social fabric of families, communities and societies, and the potential of reparation programs to acknowledge these roles;

**BEARING IN MIND** advances in international criminal law that confirm gender-based crimes may amount to genocide, crimes against humanity and war crimes;

**RECALLING** the adoption by the UN General Assembly in October 2005 of the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law;

**TAKING COGNIZANCE** of the existence of international, regional and national judicial and non-judicial mechanisms for individual and collective, symbolic and material reparation, and the enormous challenges of catering for all victims and survivors, individually and/or collectively;

**CONCERNED** that initiatives and strategies at the local, national, regional and international levels to ensure justice have not been effective from the perspectives of victims and survivors of these crimes and violations in a holistic manner;

#### DECLARE AS FOLLOWS:

1. That women's and girls' rights are human rights.
2. That reparation is an integral part of processes that assist society's recovery from armed conflict and that ensure history will not repeat itself; that comprehensive programmes must be established to achieve truth-telling, other forms of transitional justice, and an end to the culture of impunity.
3. That reparation must drive post-conflict transformation of socio-cultural injustices, and political and structural inequalities that shape the lives of women and girls; that reintegration and restitution by themselves are not sufficient goals of reparation, since the origins of violations of women's and girls' human rights predate the conflict situation.
4. That, in order to accurately reflect and incorporate the perspectives of victims and their advocates, the notion of "victim" must be broadly defined within the context of women's and girls' experiences and their

right to reparation.

5. That the fundamental nature of the struggle against impunity demands that all reparation programmes must address the responsibility of all actors, including state actors, foreign governments and inter-governmental bodies, non-governmental actors, such as armed groups, multinational companies and individual prospectors and investors.
6. That national governments bear primary responsibility to provide remedy and reparation within an environment that guarantees safety and human security, and that the international community shares responsibility in that process.
7. That the particular circumstances in which women and girls are made victims of crimes and human rights violations in situations of conflict require approaches specially adapted to their needs, interests and priorities, as defined by them; and that measures of access to equality (positive discrimination) are required in order to take into account the reasons and consequences of the crimes and violations committed, and in order to ensure that they are not repeated.

**FURTHER ADOPT THE FOLLOWING GENERAL PRINCIPLES AND RECOMMEND** that appropriate bodies at national, regional and international levels take steps to promote their widespread dissemination, acceptance and implementation.

### **1 – BASIC PRINCIPLES RELATING TO WOMEN’S AND GIRLS’ RIGHT TO A REMEDY AND REPARATION**

A – Non-discrimination on the basis of sex, gender, ethnicity, race, age, political affiliation, class, marital status, sexual orientation, nationality, religion and disability.

B – All policies and measures relating to reparation must explicitly be based on the principle of non-discrimination on the basis of sex, gender, ethnicity, race, age, political affiliation, class, marital status, sexual orientation, nationality, religion and disability and affirmative measures to redress inequalities.

C – Compliance with international and regional standards on the right to a remedy and reparation, as well as with women’s and girls’ human rights.

D – Support of women’s and girls’ empowerment by taking into consideration their autonomy and participation in decision-making. Processes must empower women and girls, or those acting in the best interests of girls, to determine for themselves what forms of reparation are best suited to their situation. Processes must also overcome those aspects of customary and religious laws and practices that prevent women and girls from being in a position to make, and act on, decisions about their own lives.

E – Civil society should drive policies and practices on reparation, with governments striving for genuine partnership with civil society groups. Measures are

necessary to guarantee civil society autonomy and space for the representation of women’s and girls’ voices in all their diversity.

F – Access to Justice. Ending impunity through legal proceedings for crimes against women and girls is a crucial component of reparation policies and a requirement under international law.

### **2 – ACCESS TO REPARATION**

A – In order to achieve reparation measures sensitive to gender, age, cultural diversity and human rights, decision-making about reparation must include victims as full participants, while ensuring just representation of women and girls in all their diversity. Governments and other actors must ensure that women and girls are adequately informed of their rights.

B – Full participation of women and girls victims should be guaranteed in every stage of the reparation process, i.e. design, implementation, evaluation, and decision-making.

C – Structural and administrative obstacles in all forms of justice, which impede or deny women’s and girls’ access to effective and enforceable remedies, must be addressed to ensure gender-just reparation programmes.

D – Male and female staff who are sensitive to specific issues related to gender, age, cultural diversity and human rights, and who are committed to international and regional human rights standards must be involved at every stage of the reparation process.

E – Practices and procedures for obtaining reparation must be sensitive to gender, age, cultural diversity and human rights, and must take into account women’s and girls’ specific circumstances, as well as their dignity, privacy and safety.

F – Indicators that are sensitive to gender, age, cultural diversity and human rights must be used to monitor and evaluate the implementation of reparation measures.

### **3 – KEY ASPECTS OF REPARATION FOR WOMEN AND GIRLS**

A – Women and girls have a right to a remedy and reparation under international law. They have a right to benefit from reparation programs designed to directly benefit the victims, by providing restitution, compensation, reintegration, and other key measures and initiatives under transitional justice that, if crafted with gender-aware forethought and care, could have reparative effects, namely reinsertion, satisfaction and the guarantee of non-recurrence.

B – Governments should not undertake development instead of reparation. All post-conflict societies need both reconstruction and development, of which reparation programmes are an integral part. Victims, especially women and girls, face particular obstacles in seizing the opportunities provided by development, thus risking their continued exclusion. In reparation, reconstruction, and development programmes, affirmative action measures are necessary to respond to the needs and experiences of women and girls victims.



C – Truth-telling requires the identification of gross and systematic crimes and human rights violations committed against women and girls. It is critical that such abuses are named and recognized in order to raise awareness about these crimes and violations, to positively influence a more holistic strategy for reparation and measures that support reparation, and to help build a shared memory and history. Currently, there is a significant lack of naming and addressing such abuses in past reparation programs and efforts, much to the detriment of surviving victims.

D – Reconciliation is an important goal of peace and reparation processes, which can only be achieved with women and girls victims' full participation, while respecting their right to dignity, privacy, safety and security.

E – Just, effective and prompt reparation measures should be proportional to the gravity of the crimes, violations and harm suffered. In the case of victims of sexual violence and other gender-based crimes, governments should take into account the multi-dimensional and long-term consequences of these crimes to women and girls, their families and their communities, requiring specialized, integrated, and multidisciplinary approaches.

F – Governments must consider all forms of reparation available at individual and community levels. These include, but are not limited to, restitution, compensation and reintegration. Invariably, a combination of these forms of reparation will be required to adequately address violations of women's and girls' human rights.

G – Reparation processes must allow women and girls to come forward when they are ready. They should not be excluded if they fail to do so within a prescribed time period. Support structures are needed to assist women and girls in the process of speaking out and claiming reparation.

H – Reparation must go above and beyond the immediate reasons and consequences of the crimes and violations; they must aim to address the political and structural inequalities that negatively shape women's and girls' lives.

**The following organizations are authors and signatories of the declaration:**

Coalition for Women's Human Rights in Conflict Situations  
Urgent Action Fund-Africa, Kenya

Rights & Democracy, Canada

Alianza de Mujeres Rurales por la Vida, Tierra y Dignidad,  
Guatemala

ASADHO/Katanga – Association africaine de défense des  
droits de l'Homme, section Katanga, Democratic Republic  
of Congo

Asociación Reflexión de Inocentes Liberados, Peru

CCJT – Coalition congolaise pour la justice transitionnelle,  
Democratic Republic of Congo

CDA – Community Development Centre, Sudan

CEDA – Community Extension Development Association,  
Sierra Leone

CLADEM – Comité de América Latina y El Caribe para la  
Defensa de la Derechos de la Mujer, Peru

CODEPU – Corporación de Promoción y Defensa de los  
Derechos del Pueblo, Chile

Coordinadora Nacional de Mujeres Afectadas por la  
Violencia Política, Peru

Corporación Humanas, Chile

Corporación para la Vida Mujeres que Crean, Colombia

Demus – Estudio para la defensa y los derechos de las  
mujeres, Peru

ESSAIM – Cadre de concertation et d'activités pour la  
protection et la défense des droits des femmes à l'est  
de la République démocratique du Congo, Democratic  
Republic of Congo

Feinstein International Center, Tufts University, USA

FOKUPERS – East Timorese Women's Communication  
Forum, Timor Leste.

Grupo Suporta Inan, Timor Leste

Instituto de Estudios Comparados en Ciencias Penales,  
Guatemala

International Women's Human Rights Law Clinic, CUNY  
Law School, USA

Khulumani Support Group, South Africa

LDGL – Ligue des droits de l'Homme dans la région des  
Grands-Lacs, Rwanda

Mamá Maquín, Guatemala

MARWOPNET – Mano River Women Peace Network,  
Sierra Leone

PAIF – Programme d'appui aux initiatives féminines,  
Democratic Republic of Congo

PCS – Consejería en Proyectos, Latin America

REDRESS, United Kingdom

Ruta Pacifica de las Mujeres, Colombia

SEVOTA – Solidarité pour l'épanouissement des veuves  
et des orphelins visant le travail et l'auto-promotion,  
Rwanda

SOFEPADI – Solidarité féminine pour la paix et le  
développement intégral, Democratic Republic of Congo

Women's Forum, Sierra Leone

Women's Jurist Association, Burundi

Women's Research and Action Group, India

## إعلان نيروبي المتعلق بحقّ النساء

### والفتيات في الإنصاف والتعويض

في الاجتماع الدولي المتعلق بحقّ النساء والفتيات في الإنصاف والتعويض، والمنعقد في نيروبي ما بين 91 و12 آذار/مارس 2002، أصدر المدافعون عن حقوق المرأة والناشطون من أجلها، والناجيات من العنف الجنسي في مناطق الصراع من أفريقيا، وآسيا، وأوروبا، وأميركا الوسطى والشمالية والجنوبية، الإعلان التالي:

### تمهيد:

انطلاقاً من قلقنا العميق من واقع أن العنف المستند إلى الجنس، ولاسيما العنف الجنسي والانتهاكات الجنسية، أصبحت أسلحة في الحرب وأخذت حجماً غير مقبولاً ومثيراً للقلق خلال العقدين الماضيين، مع قيام الحروب والإبادة الجماعية، والعنف بين الجماعات الطائفية والإثنية بإيقاع العديد من الضحايا داخل بعض البلدان والمناطق في العالم؛

ومن إدراكنا لحجم الدمار الرهيب الذي تخلّفه الصراعات المسلحة، بما فيها المساهمة الإجبارية في الصراع، على السلامة الجسدية للأفراد وصحتهم النفسية والروحية، وأمنهم الاقتصادي، ومركزهم الاجتماعي، وعلى نسيج المجتمع، وتفاوت هذا التأثير على حياة المرأة والفتاة وسبل كسب الرزق تبعاً للجنس؛ وأخذاً بعين الاعتبار الوحشية التي لا يمكن تصوّرها للجرائم والانتهاكات المرتكبة بحقّ النساء والفتيات في ظروف الصراع، والآثار غير المتناسبة لهذه الجرائم والانتهاكات على النساء والفتيات، وعوائلهن، ومجتمعاتهن؛

واعترافاً بأن العنف المستند إلى الجنس والمرتكب في ظلّ الصراعات ناتج عن التفاوت ما بين النساء والرجال، والفتيات والفتيان، والسابق على نشوب الصراعات، وأن هذا العنف يواصل مفاقمة التمييز ضد النساء والفتيات في مرحلة ما بعد الصراع؛

وأخذاً بعين الاعتبار التفسيرات التمييزية للثقافة والدين والتي تؤثر سلباً على الوضع الاقتصادي والسياسي للنساء والفتيات؛

وأخذاً بعين الاعتبار أن الفتيات تحديداً تعاني من العنف الجسدي والجنسي الموجه ضدهن، ومن انتهاكات حقوق الإنسان بحقّ أهاليهن، وأشقاؤهن، وشقيقاتهن، والأشخاص الذين يتولّون رعايتهن؛

ومع إدراكنا أن الفتيات تستجيب بشكل مختلف عن النساء للانتهاكات الخطيرة لحقوق الإنسان لأن استجابتهن من الناحية الجسدية والعقلية والنفسية لهذه التجارب أقلّ تطوراً من النساء، ومع الإشارة إلى أن الفتيات تعاني من تمييز مزدوج استناداً إلى الجنس والعمر؛

وأخذاً بعين الاعتبار أدوار النساء والفتيات ومساهمتهن في إصلاح النسيج الاجتماعي للعائلات، والجماعات، والمجتمعات، وقدرة برامج التعويض المحتملة على الاعتراف بهذه الأدوار؛

ومع إدراكنا مدى التقدّم الذي حقّقه القانون الجنائي الدولي الذي يعتبر الجرائم المستندة إلى الجنس بمثابة إبادة جماعية، وجرائم ضد الإنسانية، وجرائم حرب؛

ومستذكّرين قيام الجمعية العامة للأمم المتحدة في شهر تشرين الأول/أكتوبر 2002 بتبني «المبادئ الأساسية والتوجيهية بشأن حقّ الإنصاف والتعويض لضحايا الانتهاكات الجسدية للقانون الدولي لحقوق الإنسان والانتهاكات الخطيرة للقانون الإنساني الدولي»؛

ومع معرفتنا بوجود آليات قضائية وغير قضائية، دولية وإقليمية ووطنية، للتعويض الرمزي والمادي، الفردي والجماعي، والتحدّيات الهائلة التي تواجه عملية الاستجابة لحاجات جميع الضحايا والناجين، بشكل فردي و/أو جماعي؛

وانطلاقاً من قلقنا بسبب عدم فعالية المبادرات والاستراتيجيات، سواء على المستوى المحلي والوطني والإقليمي والدولي، في تحقيق العدالة بشكل متكامل

1. أن حقوق النساء والفتيات هي حقوق إنسانية.

2. أن التعويض جزء لا يتجزأ من العمليات الهادفة إلى مساعدة المجتمعات على التعافي من الصراعات المسلحة، ولضمان ألا يكرّر التاريخ نفسه؛ وضرورة وضع برامج شاملة لإظهار الحقيقة، وإيجاد أشكال انتقالية أخرى لتحقيق العدالة، ووضع حدّ لثقافة الإفلات من العقاب.

3. أن التعويض يجب أن يؤدّي، بعد انتهاء الصراع، إلى حصول تحولات لتصحيح المظالم الاجتماعية - الثقافية، والتفاوت السياسي والهيكلية الذي يصوغ حياة النساء والفتيات؛ وأن إعادة الدمج في المجتمع وردّ الممتلكات لا تشكّل بحد ذاتها أهدافاً كافية للتعويض لأن جذور انتهاكات حقوق النساء والفتيات سابقة على نشوب الصراع.

4. أنه من أجل عكس وجهات نظر الضحايا والمدافعين عنها بدقة ودمجها، فلا بدّ من اعتماد تعريف واسع لمفهوم «الضحية» ضمن سياق تجارب النساء والفتيات وحقّهن في التعويض.

5. أن الطبيعة الأساسية للنضال ضد الإفلات من العقاب تفترض أن تتناول جميع برامج التعويض مسؤولية جميع الأطراف، بما فيها الدول والحكومات الأجنبية، والهيئات الحكومية الدولية، والأطراف غير الحكومية مثل الجماعات المسلحة، والشركات المتعددة الجنسيات، والأفراد والمستثمرين.

6. أن الحكومات الوطنية تتحمّل المسؤولية الأولى في مجال تأمين الإنصاف وتوفير التعويض، ضمن مناخ يضمن سلامة الإنسان وأمنه، وأن المجتمع الدولي يشارك في تحمّل المسؤولية في هذه العملية.

7. أن الظروف الخاصة التي أدت إلى تحويل النساء والفتيات إلى ضحايا لجرائم وانتهاكات لحقوق الإنسان في ظلّ صراعات، تتطلب اعتماد مقاربات خاصة تستجيب لحاجتهن، ومصالحهن، وأولوياتهن كما يحدّدها؛ وأنه لا بدّ من اعتماد إجراءات تضمن لهن الحصول على المساواة (التمييز الإيجابي)، من أجل أخذ أسباب الجرائم والانتهاكات المرتكبة ونتائجها بعين الاعتبار، ولضمان عدم تكرارها.

إضافة إلى ما سبق نعلن تبني المبادئ التالية ونوصي بأن تقوم الهيئات الملائمة على المستوى الوطني والإقليمي والدولي باتخاذ الخطوات اللازمة لتشجيع على نشرها وقبولها والالتزام بها.

1. المبادئ الأساسية المتعلقة بحقّ النساء والفتيات في الإنصاف والتعويض

2. أ - عدم التمييز استناداً إلى الجنس، والنوع، والإثنية، والعرق، والعمر، والانتماء السياسي، والانتماء الطبقي، والوضع العائلي، والتوجّه الجنسي، والجنسية، والدين، والإعاقة الجسدية أو العقلية.

3. ب - يجب أن تستند جميع السياسات والإجراءات المرتبطة بالتعويض بشكل صريح إلى مبدأ عدم التمييز استناداً إلى الجنس، والنوع، والإثنية، والعرق، والعمر، والانتماء السياسي، والانتماء الطبقي، والوضع العائلي، والتوجّه الجنسي، والجنسية، والدين، والإعاقة الجسدية أو العقلية، وإلى إجراءات إيجابية لإزالة التفاوت.

4. ج - الالتزام بالمعايير الدولية والإقليمية بشأن الحقّ في الإنصاف والتعويض، إلى جانب حقوق النساء والفتيات.

5. د - دعم عملية تمكين النساء والفتيات عبر أخذ استقلالهن الذاتي ومساهمتهن في عملية صنع القرار بعين الاعتبار. ويجب أن تؤدّي هذه العمليات إلى تمكين النساء والفتيات، أو الأشخاص العاملين في سبيل مصلحة الفتيات، من أجل السماح لهن بتحديد أشكال التعويض الأكثر

ملاءمة لأوضاعهن. ويجب أن تتخطى هذه العمليات أيضاً الأعراف والقوانين الدينيّة والممارسات التي تمنع النساء والفتيات من بلوغ مركز يسمح لهن باتخاذ القرارات المتعلقة بحياتهن الخاصّة والعمل وفقاً لذلك.

6. ه - على المجتمع المدني أن يكون قوّة الدفع للسياسات والممارسات المتعلقة بالتعويض، وعلى الحكومات أن تسعى إلى عقد شراكات حقيقية مع هيئات المجتمع المدني. ومن الضروري اتخاذ إجراءات من أجل ضمان الاستقلال الذاتي للمجتمع المدني والإفصاح في المجال أمام تمثيل أصوات النساء والفتيات على اختلافها وتنوعها.

7. و - ضمان العدالة. فوضع حدّ للإفلات من العقاب عبر إجراءات قضائية خاصّة بالجرائم المرتكبة بحق النساء والفتيات، هو عنصر حيوي في سياسات التعويض وشرط ضروري لها وفقاً للقانون الدولي.

8. ضمان التعويض

9. أ - من أجل تنفيذ إجراءات تعويض تراعي النوع، والعمر، والتنوع الثقافي، وحقوق الإنسان، يجب أن تتضمن عملية صنع القرار بشأن التعويض الضحايا كطرف كامل الحقوق، مع ضمان تمثيل عادل للنساء والفتيات على اختلافها وتنوعها. وعلى الحكومات والأطراف الأخرى أن تكفل اطلاع النساء والفتيات بشكل ملائم على حقوقهن.

10. ب - يجب ضمان المشاركة الكاملة للضحايا من النساء والفتيات في مختلف مراحل عملية التعويض، أي التصميم، التنفيذ، التقييم، واتخاذ القرار.

11. ج - يجب معالجة العقبات الهيكلية والإدارية الملازمة للأنظمة القضائية والتي تمنع أو تحرم النساء والفتيات من الحصول على الإنصاف الفعّال والقابل للتنفيذ، من أجل إيجاد برامج تعويض عادلة للضحايا.

12. د - يجب إشراك موظفين من الإناث والذكور المتفهمين لمسائل معيّنة متعلّقة بالجنس والعمر والتنوع الثقافي وحقوق الإنسان، وملتزمين بالمعايير الدولية والإقليمية لحقوق الإنسان، في جميع مراحل عملية التعويض.

13. ه - يجب أن تراعي الممارسات والإجراءات الخاصّة بالحصول على التعويض مسائل الجنس والعمر والتنوع الثقافي وحقوق الإنسان، ويجب أن تأخذ بعين الاعتبار الظروف المحدّدة للنساء والفتيات، فضلاً عن كرامتهن، وخصوصيتهن، وسلامتهن.

14. و - يجب استعمال مؤشرات تراعي الجنس والعمر والتنوع الثقافي وحقوق الإنسان لرصد عملية تنفيذ إجراءات التعويض وتقييمها.

15. الأوجه الأساسية للتعويض على النساء والفتيات

16. أ - للنساء والفتيات الحقّ في الإنصاف والتعويض وفقاً للقانون الدولي. ولديهن الحقّ في الإفادة من برامج التعويض المصمّمة لإفادة الضحايا مباشرة عبر توفير ردّ الممتلكات، والتعويض، وإعادة الدمج، وغيرها من الإجراءات والمبادرات الأساسية الناشئة عن العدالة الانتقالية، والتي في حال تصميمها بعناية ودقّة، من شأنها أن تكون لها آثار تصحيحية، ولاسيّما في مجال إعادة الدمج، والإرضاء، وضمان عدم تكرار الجرائم.

17. ب - على الحكومات عدم استبدال التنمية بالتعويض. فجميع المجتمعات تحتاج في مرحلة ما بعد الصراع إلى إعادة الإعمار والتنمية، والتي يشكّل التعويض جزءاً لا يتجزأ منها. ويواجه الضحايا، ولاسيّما النساء والفتيات، عقبات معيّنة في محاولة اغتنام الفرص التي توفرها التنمية، الأمر الذي يهدّد باستبعادهن من هذه العملية. فمن الضروري اللجوء إلى إجراءات التمييز الإيجابي في برامج التعويض

وإعادة الإعمار والتنمية للاستجابة إلى حاجات الضحايا من النساء والفتيات، وتجاربهن.

18. ج - يتطلّب إظهار الحقيقة تحديد الجرائم وانتهاكات حقوق الإنسان الجسيمة والمنظمة والمرتبكة بحق النساء والفتيات. وتعتبر تسمية هذه الاعتداءات والاعتراف بها أمراً حيويّاً من أجل رفع مستوى الوعي بشأن هذه الجرائم والانتهاكات للتأثير بشكل إيجابي على استراتيجية أكثر تكاملاً للتعويض وإجراءات تدعم التعويض وتساعد في إيجاد ذاكرة وتاريخ مشتركين. وقد عانت جميع برامج وجهود التعويض في الماضي من نقص مهمّ في مجال تسمية مثل هذه الاعتداءات وتناولها، على حساب الناجين من الضحايا.

19. د - تشكّل المصالحة هدفاً مهماً لعمليتي السلام والتعويض وللتين لا يمكن تحقيقهما إلا بمشاركة كاملة من جانب الضحايا من النساء والفتيات، مع احترام حقهن في الكرامة، والخصوصية، والسلامة، والأمن.

20. ه - يجب أن تكون إجراءات التعويض عادلة وفعّالة وسريعة ومتناسبة مع خطورة الجرائم والانتهاكات والأذى الذي عانت منه الضحايا. وفي حالة ضحايا العنف الجنسي وغيره من الجرائم المستندة إلى الجنس، يتعيّن على الحكومات أن تأخذ بعين الاعتبار الأبعاد المتعدّدة والآثار البعيدة المدى لهذه الجرائم بحق النساء والفتيات، وعائلاتهم، ومجتمعاتهن، الأمر الذي يتطلّب اعتماد مقاربات متخصصة ومتكاملة ومتعدّدة المذاهب.

21. و - على الحكومات أن تدرس جميع أشكال التعويض المتاحة على المستويين الفردي والجماعي. وهذا يشمل بطريقة غير حصرية، ردّ الممتلكات، والتعويض، وإعادة الدمج. ويتطلّب توفير معالجة ملائمة للانتهاكات التي عانت منها النساء والفتيات استخدام أشكال متعدّدة من التعويض.

22. ز - يجب أن تسمح عمليات التعويض للنساء والفتيات بالظهور عندما تصبحن جاهزات لذلك. ولا يجب استبعادهن في حال عدم تمكنهن من فعل ذلك خلال مهلة زمنية معيّنة. ومن الضروري إيجاد هيكلية تدعم لمساعدة النساء والفتيات على إسماع أصواتهن والمطالبة بالتعويض.

23. ح - يجب أن يذهب التعويض إلى مدى أبعد من الأسباب والنتائج المباشرة للجرائم والانتهاكات. ويجب أن يهدف إلى تناول التفاوت السياسي والهيكلية الذي يؤثر سلباً على حياة النساء والفتيات.

24. صاغت هذا الإعلان ووقعت المنظمات التالية:

Coalition for Women's Human Rights in Conflict Situations  
Urgent Action Fund-Africa, Kenya

Rights & Democracy, Canada

Alianza de Mujeres Rurales por la Vida, Tierra y Dignidad,  
Guatemala

ASADHO/Katanga – Association africaine de défense des  
droits de l'Homme, section Katanga, Democratic Republic  
of Congo

Asociación Reflexión de Inocentes Liberados, Peru

CCJT – Coalition congolaise pour la justice transitionnelle,  
Democratic Republic of Congo

CDA – Community Development Centre, Sudan

CEDA – Community Extension Development Association,  
Sierra Leone

CLADEM – Comité de América Latina y El Caribe para la

Defensa de la Derechos de la Mujer, Peru

CODEPU – Corporación de Promoción y Defensa de los Derechos del Pueblo, Chile

Coordinadora Nacional de Mujeres Afectadas por la Violencia Política, Peru

Corporación Humanas, Chile

Corporación para la Vida Mujeres que Crean, Colombia

Demus – Estudio para la defensa y los derechos de las mujeres, Peru

ESSAIM – Cadre de concertation et d’activités pour la protection et la défense des droits des femmes à l’est de la République démocratique du Congo, Democratic Republic of Congo

Feinstein International Center, Tufts University, USA

FOKUPERS – East Timorese Women’s Communication Forum, Timor Leste.

Grupo Suporta Inan, Timor Leste

Instituto de Estudios Comparados en Ciencias Penales, Guatemala

International Women’s Human Rights Law Clinic, CUNY Law School, USA

Khulumani Support Group, South Africa

LDGL – Ligue des droits de l’Homme dans la région des Grands-Lacs, Rwanda

Mamá Maquín, Guatemala

MARWOPNET – Mano River Women Peace Network, Sierra Leone

PAIF – Programme d’appui aux initiatives féminines, Democratic Republic of Congo

PCS – Consejería en Proyectos, Latin America

REDRESS, United Kingdom

Ruta Pacifica de las Mujeres, Colombia

SEVOTA – Solidarité pour l’épanouissement des veuves et des orphelins visant le travail et l’auto-promotion, Rwanda

SOFEPAI – Solidarité féminine pour la paix et le développement intégral, Democratic Republic of Congo

Women’s Forum, Sierra Leone

Women’s Jurist Association, Burundi

Women’s Research and Action Group, India



# Bibliography

- Committee on the Elimination of Discrimination against Women. (2012). Access to justice – concept note for half day general discussion Endorsed by the Committee on the Elimination of Discrimination against Women at its 53rd Session, October 2012. Retrieved from <http://www2.ohchr.org/english/bodies/cedaw/docs/Discussion2013/ConceptNoteAccessToJustice.pdf>.
- Agamben, G. (1998). *Sovereign power and bare life*. Redwood City, CA: Stanford University Press.
- Albatmeh, R. (2012). Review of the Palestinian regulations from A women’s rights perspective. Research Report: Palestine Economic Policy Research Institute-MAS.
- Amnesty International. (2005). *Conflict, occupation and patriarchy: Women carry the burden*. London: Amnesty International. Retrieved from Amnesty International website <http://www.amnesty.org/en/library/info/MDE15/016/2005/en>.
- Anderson M. (1999). Access to justice and legal process: Making legal institutions responsive to poor people in LDCs. Paper discussion at WDR Meeting 16-17 August 1999. Retrieved from <http://siteresources.worldbank.org/INTPOVERTY/Resources/WDR/DfID-Project-Papers/anderson.pdf>.
- Balfour, G. (2008). Falling between the cracks of distributive and restorative justice: The victimization and punishment of Aboriginal women. *Feminist Criminology*, 3(2), 101-120.
- Bedner, A. & Vel, J.A.C. (2010). An analytical framework for empirical research on access to justice. *Law, Social Justice & Global Development Journal (LGD)*, 1, 2-29.
- Birzeit University Institute of Law. (2006). *Informal justice: Rule of law and dispute resolution in Palestine*. Retrieved from <http://lawcenter.birzeit.edu/iol/en/project/outputfile/5/a391785614.pdf>.
- Burnard P. (1991). A method of analysing interview transcripts in qualitative research. *Nurse Education Today*, 11, 461-466.
- \_\_\_\_\_. (1996). Teaching the analysis of textual data: An experiential approach. *Nurse Education Today*, 16, 278–281.
- Cahana A. & Kanonich Y. (2013). *The permit regime: Human rights violations in West Bank areas known as the “seam zone.”* Jerusalem: HaMoked—Center for the Defense of the Individual. Retrieved from [http://www.hamoked.org/files/2013/1157660\\_eng.pdf](http://www.hamoked.org/files/2013/1157660_eng.pdf).
- Cavanagh S. (1997). Content analysis: concepts, methods and applications. *Nurse Researcher*, 4, 5-16.
- Chaban, S. (2011). Promoting gender-sensitive justice and legal reform in the Palestinian territories: Perspectives of Palestinian service providers. *Journal of International Women’s Studies Special Issue: Arab Women & Their Struggles for Socio-economic and Political Rights*, 12(3), 150-167.
- Chaban, S., Daraghmeh, R. & Stettler, G. (2010). *Palestinian women and security: Why Palestinian women and girls do not feel secure*. Geneva: Geneva Centre for the Democratic Control of Armed Forces (DCAF).
- Charmaz, K. (1990). ‘Discovering’ chronic illness: Using grounded theory. *Social Science and Medicine*, 30(11), 1161-1172.
- \_\_\_\_\_. (2006). *Constructing grounded theory: A practical guide through qualitative analysis*. London: Sage Publications.
- Crenshaw, K. (1996). The intersection of race and gender. In *Critical race theory*, Crenshaw, K., Gotanda, N., Peller, G., & Thomas, K. (Eds.). NY: New Press.
- Crooks, DL. (2001). The importance of symbolic interaction in grounded theory research on women’s health. *Health Care for Women International*, 22, 11-27.
- Daher-Nashif, S. (2011). *The social and political “enlivening” of the dead Palestinian body: The case of the Palestinian Forensic Medicine Institute*. (Doctoral Dissertation). The Hebrew University, Jerusalem.
- Daly, K. & Bouhours, B. (2010). Rape and attrition in the legal process: a comparative analysis of five countries. In Michael Tonry (Ed.), *Crime and justice: A review of research*, 39, 565-650. Chicago: University of Chicago Press.
- Geneva Centre for the Democratic Control of Armed Forces (DCAF) and Palestinian Women’s Centre for Legal Aid and Counselling (WCLAC). (2012). *Working Paper – Palestinian women and security: Promoting the rights of Palestinian women and girls through legislation*. Ramallah and Geneva: DCAF and WCLAC. Retrieved from <http://www.dcaf.ch/Publications/Working-Paper-Palestinian-Women-and-Security-Promoting-the-Rights-of-Palestinian-Women-and-Girls-through-Legislation>.
- Dey I. (1993). *Qualitative data analysis. A user-friendly guide for social scientists*. London: Routledge.
- Downe-Wamboldt B. (1992). Content analysis: Method, applications and issues. *Health Care for Women International*, 13, 313-321.
- Elo, S. & Kyngäs, H. (2008). The qualitative content analysis process. *Journal of Advanced Nursing*, 62(1), 107-115.
- European Union. (2011). <http://rebuildingalliance.org/wp-content/uploads/2012/03/Area-C-Palestinian-State-Building.pdf>
- \_\_\_\_\_. (2012). *Internal Report on “Area C and Palestinian State Building.”* Brussels, January 2012 (Excerpts). As published in the *Journal of Palestine Studies*, 41, (3), 220-223.
- Friedman L. & Etkes D. (2005). Hebron – Settlements in focus. Retrieved from Peace Now website <http://peacenow.org.il/eng/content/hebron-settlements-focus>.
- Glaser, B.G. & Strauss, A.L. (1967). *The discovery of grounded theory: Strategies for qualitative research*. New York: Aldine de Gruyter.
- Haj-Yahia, M. (1999). *Wife-abuse and battering in the West Bank and Gaza: Results of two national surveys*.

- Ramallah: Bisan Center for Research and Development.
- Hernandez, C.R. (2000). National law and indigenous customary law: The struggle for justice of indigenous women in Chiapas, Mexico. Visiting Resource Professor Papers; The University of Texas at Austin.
- Hsieh, H.F. & Shannon, S. (2005). Three approaches to qualitative content analysis. *Qualitative Health Research*, 15, 1277-1288.
- Jallad Z. (2012). Palestinian women and security: A legal analysis. Geneva Center for the Democratic Control of Armed Forces, p. 6. Retrieved from <http://www.dcaf.ch/Publications/Palestinian-Women-and-Security-A-Legal-Analysis>
- Kadman N. (2013). Acting the Landlord: Israel's policy in Area C, the West Bank. Report summary. Retrieved from B'Tselem website [http://www.btselem.org/publications/201306\\_area\\_c](http://www.btselem.org/publications/201306_area_c).
- Kelly, T. (2006). Law, violence and sovereignty among West Bank Palestinians. N.Y. and Cambridge: Cambridge University Press.
- Landenburger, K. (1989). A process of entrapment in and recovery from an abusive relationship. *Issues in mental health nursing*, 10(3-4), 209-227.
- Lester, S (1999). An introduction to phenomenological research. Taunton UK: Stan Lester Developments. Retrieved from [www.sld.demon.co.uk/resmethy.pdf](http://www.sld.demon.co.uk/resmethy.pdf).
- McCain, G.C. (1988). Content analysis: a method for studying clinical nursing problems. *Applied Nursing Research*, 1(3), 146-150.
- McKee, A. (2003). Textual analysis: A beginner's guide. Thousand Oaks CA: Sage Publications.
- Middle East Online. (2009). Palestinian PM: New strategy for statehood. Middle East Online. Retrieved from <http://www/middle-east-online.com/english/?id=35434>.
- Öhman, K. & Björkman (2012). Inequalities facing women living in Area C of the occupied Palestinian territories' West Bank. The Kvinna till Kvinna Foundation. Retrieved from the WCLAC website: [http://www.wclac.org/english/userfiles/Kvinna%20till%20Kvinna%20Found\\_Inequalities%20facing%20Women%20living%20in%20Area%20C%20of%20the%20occupied%20Palestinian%20territories%20West%20Bank.pdf](http://www.wclac.org/english/userfiles/Kvinna%20till%20Kvinna%20Found_Inequalities%20facing%20Women%20living%20in%20Area%20C%20of%20the%20occupied%20Palestinian%20territories%20West%20Bank.pdf).
- Palestinian Basic Law: A collection of various proposals and amendments to the Basic Law of Palestine. Retrieved from: <http://www.palestinianbasiclaw.org/basic-law/2003-amended-basic-law>.
- Palestinian Central Bureau of Statistics. (2005). Domestic Violence Survey. [http://www.pcbs.gov.ps/portals/\\_pcbs/PressRelease/Domestic\\_e.pdf](http://www.pcbs.gov.ps/portals/_pcbs/PressRelease/Domestic_e.pdf)
- \_\_\_\_\_. (2011). Domestic Violence Survey. Palestinian National Council. (1988). Declaration of Independence. Retrieved from <http://www.multaqa.org/pdfs/PNC%20INDEPENDANCE%20DECLARATION.pdf>. (English).
- Palestinian National Authority. Ministry of Women's Affairs, National Committee to Combat Violence against Women. (2011). National Strategy for Combatting Violence Against Women: 2011-2019. Ramallah, West Bank.
- Palestinian National Council. (1988). Declaration of Independence. Retrieved from <http://www.multaqa.org/pdfs/PNC%20INDEPENDANCE%20DECLARATION.pdf>. (English).
- Peltz, A. (2006). Gender-based violence in Palestine: A case study. Jerusalem and Ramallah: Miftah.
- Rob-Jackson, C. (2012). Justice Watchdogs: Promoting Women's Access to Justice Through Community-Based Paralegal Programs. Legal Working Paper Series on Legal Empowerment for Sustainable Development.
- Shalhoub-Kevorkian, N. (2002). Femicide and the Palestinian criminal justice systems: Seeds of change in the context of state building? *Law and Society Review*, 36, 3, 577-606.
- \_\_\_\_\_. (2003). Re-examining femicide: Breaking the silence and crossing "scientific" borders. *Signs*, 28(2), 581-608.
- Shomar, O. (2007). Crimes of women's killing in Palestine in the period 2004-2006: Follow up and supervision. Ramallah, Palestine: Palestinian Non-governmental organization against domestic violence against women (al-Muntada).
- Smart, C. (1989). *Feminism and the power of law*. London: Routledge.
- Smith, A. (2000). Colors of violence. The national newsmagazine on race and politics, 11, 1-4.
- \_\_\_\_\_. (2004). Beyond the politics of inclusion: Violence against Women of Color and Human Rights. *Meridians: Feminism, Race, Transnationalism*, 4(2), 120-124.
- Snider, L. (1994). Feminism, punishment, and the potential of empowerment. *Canadian Journal of Law and Society*, 9, 75-104.
- Snider, L. (1998). Understanding the second great confinement. *Queen's Quarterly*, 105(1), 29-46.
- Stoler, A. (1997). *Race and the education of desire*. Chapel Hill: Duke University Press.
- Tadiar, N. (1993). Sexual economies of the Asia-Pacific. In Arif Dirlik (Ed.), *What's in a name! Critical perspectives on the Pacific region idea* (pp. 45-53). Boulder: Westview Press.
- Tallman, V. (1991, December 18). Tribes speak out on toxic assault. *Lakota Times*, Rapid City, South Dakota.
- \_\_\_\_\_. (1992). Toxic waste of Indian lives. *Covert Action*, 17, 16-22.
- The Independent Commission for Human Rights (ICHR). (2013). Statement issued by ICHR on the occasion of the International Women's Day/March 8th. Retrieved from the ICHR website <http://www.ichr.ps/en/2/4/999/Statement-issued-by-ICHR-on-the-Occasion-of-the-International-Women%E2%80%99s-Day-/March-8th>

Statement-issued-by-ICHR-on-the-Occasion-of-the-International-Women%E2%80%99s-Day-/-March-8th.htm.

United Nations Development Programme (UNDP). (2005). Programming for justice: Access for all: A practitioner's guide to a human rights-based approach to access to justice. Retrieved from [http://www.globalrights.org/site/DocServer/UNDP\\_Justice\\_Guides\\_ProgrammingForJustice-AccessForAll.pdf?docID=11143](http://www.globalrights.org/site/DocServer/UNDP_Justice_Guides_ProgrammingForJustice-AccessForAll.pdf?docID=11143).

\_\_\_\_\_. (2009). Access to justice in the occupied Palestinian territory: Mapping the perceptions and contributions of non-state actors. Retrieved from the UNDP website <http://www.undp.ps/en/fsh/pubs/a2jeng.pdf>.

United Nations Office for Coordination of Humanitarian Affairs, occupied Palestinian Territory. (2011). Humanitarian factsheet on Area C of the West Bank, July 2011. Retrieved from [http://www.ochaopt.org/documents/ocha\\_opt\\_Area\\_C\\_Fact\\_Sheet\\_July\\_2011.pdf](http://www.ochaopt.org/documents/ocha_opt_Area_C_Fact_Sheet_July_2011.pdf).

\_\_\_\_\_. (2012). West Bank movement and access update, September 2012. Retrieved from [http://hlrn.org/img/violation/ocha\\_opt\\_movement\\_and\\_access\\_report\\_september\\_2012\\_english.pdf](http://hlrn.org/img/violation/ocha_opt_movement_and_access_report_september_2012_english.pdf) – 7/15/2013.

\_\_\_\_\_. (2013). Area C of the West Bank: Key humanitarian concerns, January, 2013. Retrieved from [http://www.ochaopt.org/documents/ocha\\_opt\\_area\\_c\\_factsheet\\_January\\_2013\\_english.pdf](http://www.ochaopt.org/documents/ocha_opt_area_c_factsheet_January_2013_english.pdf).

UN Women. (2013). Policing for women's security and justice in the occupied Palestinian territory: A comprehensive background analysis, and Recommendations for strengthening the Palestinian Civil Police and Family Protection Unit.

Women Center for Legal Aid and Counseling (WCLAC). (2011a). Consolidating the past – shaping the future: A strategy for 2010-2012. Retrieved from WCLAC website <http://www.wclac.org/english/userfiles/2011%20WCLAC%20Annual%20Narrative%20Report.pdf>.

\_\_\_\_\_. (2011b). Women without names: Report on femicide in the name of honor in Palestinian society 2007-2010.

Retrieved from WCLAC website <http://www.wclac.org/userfiles/Women%20inside%20preview.pdf>.

\_\_\_\_\_. (2012). Public statement: No "honour" in murder. Retrieved from WCLAC web site: <http://www.wclac.org/english/etemplate.php?id=1138>.

Zureik, E., Lyon, D., & Abu-Laban, Y. (Eds.). (2010). Surveillance and control in Israel/Palestine: population, territory and power (Vol. 33). NY, NY: Routledge.

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