



Committee for the Elimination of Discrimination against Women
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3 October 2022

Information on the State of Palestine for Consideration by the Committee on the Elimination of Discrimination against Women at its 85th Pre-Sessional Working Group (31 October - 4 November 2022)

Introduction

1. Equality Now and YWCA Palestine present the following submission in advance of the 85th Pre-Sessional Working Group of the Committee on the Elimination of Discrimination against Women ('the Committee'), taking place between 31 October and 4 November 2022, for consideration of the list of issues prior to reporting of the State of Palestine. Stars of Hope Organization, Psycho-Social Counseling Center for Women, El Harah Theatre Group, Women Media and Development Organization, YWCA Palestine and YWCA Jerusalem, all non-governmental organisations based in Palestine, also join in this submission. Our joint submission outlines the challenges in Palestine's legal and policy framework specifically pertaining to the absence of legislation on family protection, the legal exception to the minimum age for marriage, the absence of legislation and policies to address workplace sexual harassment and the need to effectively implement the quota system that aims to increase women's political participation.

Information about the authors of the submission

2. **Equality Now** is an international human rights NGO with ECOSOC status with the mission to achieve legal and systemic change that addresses violence and discrimination against women and girls around the world. Founded in 1992, Equality Now's main areas of work are ending sexual violence, ending sexual exploitation, ending harmful practices and achieving legal equality.
3. The **Young Women's Christian Association (YWCA) Palestine** is a non-profit Palestinian association established in Jerusalem in 1918 and includes an umbrella of

four grassroots associations in Jerusalem, Ramallah, Jericho and Bethlehem. The YWCA of Palestine is affiliated with the World YWCA which works to empower women, young women, and girls in more than a hundred countries across the globe.

Legal Context

4. The existence of multiple and complex legal systems in Palestine creates inconsistencies and gaps in the law that hinder and complicate women's access to justice. Notably, the absence of legislation on domestic violence permits impunity for gendered crimes. There is a myriad of factors that drive sexual and gender-based violence (SGBV), including patriarchal perceptions that limit the role of women to the domestic realm. Conflict destabilizes communities causing displacement, insecurity, and a breakdown of law enforcement¹. The prolonged humanitarian crisis in Palestine has a detrimental impact on gendered relations and women's rights, exacerbating the prevalence of SGBV not only in the domestic sphere but in other areas of life. A perception survey carried out by UN Women in 2018 indicated that 50 percent of Palestinian women and 63 percent of Palestinian men agreed that women should tolerate violence to keep the family together.²
5. In the absence of an effective system for accessing justice, women who have experienced gender-based violence are left with few options, including restorative justice based on clan and family arrangements where reconciliation is the ultimate objective. This contravenes Palestine's obligation under CEDAW to ensure appropriate and effective access to justice and remedies which are not influenced by gender stereotypes.³ This option is rooted in patriarchal systems: it neither addresses the violence inflicted on the women, nor is it victim-centered.
6. Although Palestine ratified CEDAW in 2014 without reservations, it has yet to domesticate and conform its multiple national legislations with the articles of the convention, making it difficult to meet its international obligations under this treaty. Not publishing the convention in the Official Gazette impedes the harmonization process and does not make it binding as a national law. In its 2018 concluding observations, the CEDAW Committee recommended that the state convene the Palestinian Legislative Council and take necessary steps towards the full implementation of the convention including the establishment of a legislative committee to harmonize national laws with the principles and spirit of the convention⁴. This step is critical especially amidst multiple reports that show an escalation in attacks on female activists, women's rights defenders and feminists who advocate for the domestication of CEDAW - branding them as foreign agents. Tribal and religious leaders have publicly called for the withdrawal from the treaty.⁵

Domestic Violence/ Family Protection Bill

7. The State of Palestine lacks comprehensive legislation that specifically addresses domestic violence. Victims of domestic violence lack legal protection including

¹ Gaza: The Impact of Conflict on Women - Norwegian Refugee Council Report, 2015

² UN Women (2018). International Men and Gender Equality Survey (IMAGES) Palestine Report.

³ CEDAW General Recommendation 33, Access to Justice

⁴ CEDAW/C/PSE/CO/1

⁵ <https://english.alaraby.co.uk/news/palestinian-tribal-leaders-stand-against-womens-equality-treaty>

restraining orders and other measures to prevent recurrence of violence. To access justice, women and girls have to resort to multiple legislations, such as the Personal Status Law of 1976, the Jordanian Penal Code No. 16 of 1960, the Palestinian Criminal Procedures Law No. 2 of 2001 and the amended Basic Law of 2005. Most of the laws in force in Palestine have not been updated, tainted by shortcomings, and not commensurate with the scale of development and progress in society, whereas the stipulated penalties do not conform to a modern perspective of justice.

8. Thorough statistics that reflect the magnitude of domestic violence in Palestine are lacking. In 2020, a Palestinian organization - Women's Centre for Legal Aid and Counselling (WCLAC) - documented 37 cases of femicide and 21 cases in 2019. Among the 149 cases of femicide cases documented from 2015-2020, the highest occurrence was 2020, making up 25 percent of cases documented during this period.⁶
9. A survey conducted by the Palestinian Central Bureau of Statistics in 2019 indicated that 29 percent of currently or ever married women in Palestine have been subjected to some form of violence by their husbands (partners). Furthermore, during COVID 19 lockdowns, the prevalence of violence was greater and there was a significant increase in the reported cases of femicide.⁷ Few individuals, however, are willing or able to report cases of domestic violence making it difficult to accurately address gender-based violence and particularly domestic violence. This is a problem as national prevention and response interventions are designed, informed and determined by statistics that reflect the gravity, patterns and rates of GBV nationally.
10. We respectfully urge the Committee to include in its list of issues prior to reporting and make the following proposed recommendations to the government of Palestine regarding the violations of CEDAW addressed in this section:
 - Immediately adopt and implement the Family Protection Bill that criminalizes all forms of abuse: physical, psychological, economic and sexual.
 - Adopt national measures and policies to address domestic and gender-based violence in accordance with international human rights standards and in fulfillment of Palestine's obligations under CEDAW. This includes establishing adequately resourced family protection units and ensure victims and survivors of domestic violence have access to services.
 - Harmonize the Personal Status Laws governing the protection of the family from violence, including the Egyptian Family Rights Law of 1954 and the Jordanian Personal Status Law of 1976 that are applicable in the Gaza Strip and West Bank, with the international conventions signed by Palestine.
 - Collect disaggregated and accurate statistics on all forms of gender-based violence, including domestic violence cases.

⁶<https://www.ohchr.org/sites/default/files/Documents/Issues/Women/SR/Femicide/2021-submissions/CSOs/state-of-palestine-womens-centre.pdf>

⁷ <https://www.pcbs.gov.ps/Downloads/book2480.pdf>

- Adopt a comprehensive and coordinated national policy, including gender-responsive budgeting for all policies, in order to ensure the effective support of victims of gender-based violence to ensure they are empowered and protected.
- Establish specialized judicial and police institutions capable of dealing with domestic violence cases.
- Develop and implement effective mechanisms to address and combat negative gender-based stereotypes and practices that tolerate domestic violence and do not bring perpetrators to justice.

Legal Exception for Child Marriage

11. Child, Early and Forced Marriage (CEFM) as a gendered practice remains one of the most problematic issues that persists in Palestine and requires urgent, multi-sectoral response by the government. Child marriage continues to persist with high rates despite a decree banning it. There is limited data on child marriage in Palestine. The most recent verified data from UNFPA and UNICEF in 2014 indicates that 15% of girls between the ages of 20 and 24 were married before 18 years, and 1% were married before 15 years⁸. In 2020, the Palestinian Central Bureau of Statistics indicated that there is decline in the percentage of child marriage where it has reached 11.9 %⁹ from the previous 23.7 %¹⁰. The lack of documentation and reporting on child marriage cases makes it difficult to develop evidence-based policies and legislations.
12. The drivers leading to child marriage include both social and economic factors. Political instabilities are also some of the reasons for the prevalence of the practice where it leads to economic struggles and poverty¹¹. It is also essential to assess the role of Israeli colonialism (which impacts girls in intersecting and complex ways)¹²: child marriages are seen as a coping strategy against the financial struggle and economic insecurities. By marrying her off, a young girl's family believes they can alleviate their economic burdens. The practice is also largely supported by the entrenched patriarchal codes that support gender discrimination and inequalities.
13. In 2019, a Presidential decree raised the minimum age for marriage for both boys and girls to 18 years old.¹³ As a result of the political split where different political entities control different territories, the decree has partial territorial jurisdiction in Palestine and only enforceable in the West Bank. However, the law provides an exception to this rule, which gives the authority to a judge without clear parameters to marry off a girl if he/she believes it is in the child's best interest.¹⁴ Granting such broad authority to the judge is disadvantageous to the child and legitimizes child marriage. The parameters of the judicial discretion granted to the judge are undefined and largely influenced by

⁸ Palestinian Multiple Indicator Cluster Survey (MICS), PCBS, UNICEF and UNFPA, 2014

⁹ Palestinian Bureau of Statistics, 2022 <https://pcbs.gov.ps/post.aspx?lang=en&ItemID=4213>

¹⁰ Palestinian Multiple Indicator Cluster Survey (MICS), PCBS, UNICEF and UNFPA, 2014

¹¹ <https://borgenproject.org/child-marriage-in-palestine/>

¹² "Little Women": Adolescence and Child Marriage in Palestine, International Women's Initiative - Global Policy Brief 2021 <https://www.theiwi.org/gpr-reports/palestine-adolescence-child-marriage>

¹³ Decree Law No 21 of 2019 in regard to setting the age of marriage in Palestine, issued by the President of Palestine on 04/11/2019. See also Girls Not Brides, Palestine Country Profile, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/palestine/>

¹⁴ Articles 6, 7 of the Family Rights Law (1954), <http://www.dcaf.ch/Publications/Palestinian-Women-and-Security-A-Legal-Collection>

traditions and religious beliefs. This exception is considered to be a huge gap within law, allowing the tradition to be exploited and the practice to continue.

14. Despite the ratification of CEDAW and the Convention on the Rights of the Child (CRC) with no reservations¹⁵, there is weak implementation of the laws against child marriage and little government action to stop its occurrence. Legal reforms relating to the minimum age of marriage must also be accompanied by the establishment of a well-defined, rights-based and locally relevant holistic strategy comprised of supportive legal and policy measures, including social measures and accountability at all levels.¹⁶ This includes a mandatory marriage registration process which is strictly enforced to limit the number of unregistered marriages; complementary measures to address root causes of child, early and forced marriage including economic and gender-transformative programming that addresses gender inequality and lack of autonomy and decision-making for girls.¹⁷ The government must also implement policies to promote access to education for girls - as demonstrated by a 2019 report by Oxfam, the areas where education is hardest to access for girls have the highest rates of child marriage in the country.¹⁸
15. We respectfully urge the Committee to make the following proposed recommendations to the government of Palestine regarding the violations of CEDAW addressed in this section:
 - Remove the legal exception to child marriage and adopt an absolute minimum age of 18 years for girls and boys.
 - Develop comprehensive data collection systems for child marriage.
 - Adopt a comprehensive, multi-sectoral national action plan/policy to address child marriage including addressing the key drivers of the practice and improving access to justice for women and girls subjected to child marriage

Sexual Harassment in the Workplace

16. In the absence of a legal system that protects women from sexual harassment, compounded by a patriarchal society that stigmatizes and blames women and girls, cases of sexual harassment in the workplaces continue to rise. Statistics confirm that sexual harassment in Palestine is increasing and becoming a phenomenon. Between 2021 and 2022, the Palestinian General Federation of Trade Unions (PGFTU) reported 310 cases of sexual violence and harassment in workplaces, including 3 cases of sexual assault.¹⁹ Out of these incidents, 45% were committed by employers and supervisors. A survey conducted by the Palestinian Bureau of Statistics, the ILO and Birzet

¹⁵<https://palestine.unfpa.org/sites/default/files/pub-pdf/Early%20Marriage%20Advocacy%20Paper%20-%2029%2011%202016.pdf>

¹⁶ Joint General Recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/General Comment No. 18 of the Committee on the Rights of the Child (2019) on harmful practices, para. 33.

¹⁷ See Report by the United Nations High Commissioner for Human Rights, *Progress, gaps and challenges in addressing child, early and forced marriage, and measures to ensure accountability at the community and national levels, including for women and girls at risk of and those subjected to this harmful practice*, A/HRC/50/44, 12 May 2022

¹⁸ https://healthclusteropt.org/admin/file_manager/uploads/files/1/5c91e3b44a3c7.pdf

¹⁹ <https://www.aman-palestine.org/media-center/16625.html>

University found that women are less likely to report incidents of work place GBV because they fear retaliation and do not feel they are adequately protected at work. The same survey found that some women are not even aware that they have been subjected to GBV.²⁰

17. During the launch of the 16 days of activism in 2021, media reports quoted Aisha Hamouda, the Secretary of the Department of Gender at PGFTU stating that her findings indicate numerous abuses in workplaces that amount to sexual exploitation. Ms. Hamouda reported that some institutions deliberately employ vulnerable women (divorced or widowed) with the intention of sexually exploiting them.²¹ The Union also found that certain workplace settings in the private sector - such as the location of female lavatories and the unsuitable position of cameras - makes women more vulnerable to abuse and harassment. The PGFTU also disclosed that cases of sexual harassment are rarely reported particularly because the legal system does not protect women but rather blames women and girls – treating the victims as the accused. In some instances, women are forbidden from accessing their workplaces after reporting incidences of sexual harassment.
18. The Palestinian Penal Code No. 16 of 1960 does not explicitly criminalize sexual harassment. It only criminalizes “violating public modesty by word or deed in public spaces”. However, if this act occurs in a private space, it is not criminalized and therefore the offender is not punished. Furthermore, the law does not specifically criminalize workplace sexual harassment. Palestine does not have official statistics, workplace sexual harassment is widespread, and stigma associated with speaking out hinders women from accessing justice.²²
19. The Palestinian state should amend the labour laws and adopt the definition of workplace sexual harassment as stipulated in ILO convention²³ and CEDAW General Recommendation No 10²⁴. The Palestinian Civil Service Law No. 4 of 1998 and the Labor Law No. 7 of 2000 do not address sexual harassment in the workplace and do not categorize it as a crime punishable by law. Instead, they reduce it to a violation of the Code of Conduct of the Public Service. Meanwhile, the Anti-Corruption law criminalizes bribery and extortion, yet, it does not classify sexual harassment in the workplace as a form of corruption and bribery.
20. Culture and customs in Palestinian society deal with workplace sexual harassment in a suppressed manner and usually attempt to cover it up entirely. This censored approach makes it difficult to develop a culture of collectively reporting such crimes and

²⁰ Gender-Based Violence in the Workplace: An overview from the occupied Palestinian territory by PCBS, ILO and Birzet University, 2011 - https://www.ilo.org/wcmsp5/groups/public/---arabstates/---ro-beirut/documents/publication/wcms_236942.pdf.

²¹ Palestinian General Federation of Trade Unions (PGFTU), 16 Days of Activism Campaign Launch, 2021 <https://pgftu.org/9798/>

²² International Labour Organization, "The situation of workers of the occupied Arab territories" (2011), p. 3

²³ Any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job

²⁴ Unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks, showing pornography and sexual demands, whether by words or actions.

encourages impunity. The Palestinian state has a responsibility to protect women from this type of violence and has an obligation under international and national laws to ensure that workplaces are safe for women.

21. We respectfully urge the Committee to include in its list of issues prior to reporting and make the following proposed recommendations to the government of Palestine regarding the violations of CEDAW addressed in this section:

- Amend the Palestinian Penal Code No 160 of 1960 to include an article that defines workplace sexual harassment in conformity with the CEDAW definition and principles of ILO Convention 190. The Penal Code should also be amended to include provisions that would facilitate the successful litigation of a sexual harassment claim.
- The Palestinian state should ratify the ILO Convention 190 and develop legislation that conclusively defines and criminalizes workplace sexual harassment.
- The Palestinian state should develop a national strategy to address the root causes of workplace sexual harassment, including empowering victims/survivors to speak out, set up suitable systems and channels of grievances and establish a robust mechanism for complaints that ensures privacy and non-retaliation, and effective case management of workplace sexual harassment.
- Promote a culture of Zero tolerance to workplace sexual harassment. This includes workplaces committing, through policies, to taking allegations seriously, handling cases with confidentiality and encouraging victims to come forward.

Women's Political Participation

22. Palestinian women have long been part and parcel of the Palestinian struggle as leaders with agency. They played nontraditional roles in furthering the cause for human rights, self-determination and equality. They should participate in governance as equal partners. Currently, there are only 3 female ministers out of 24 ministers - making a mere 12.5% representation in the executive branch, marking a significant reduction compared to previous appointments where women's representation was at 21 percent.²⁵ In addition, the ministries held by women are the ministries of Tourism and Antiquities, Women's Affairs and the ministry of Health. These appointments reaffirm the stereotypes associated with the roles and responsibilities women hold in public spaces.

23. The limited / minimal participation of women in government also trickles down to other sectors, in the civil service for instance, despite an almost equal percentage of women's participation in the public service sector (47%).²⁶ Their presence is low in more senior appointments – (14% only). This is due to the fact that appointments to senior/upper level positions and promotions are mostly done by decree and are not subject to competitions or career graduation.

²⁵ <http://www.palestinecabinet.gov.ps/portal>

²⁶ Public Employees' Office Data February 2022

24. Additionally, women's representation in the National (10.9%²⁷) and Central (5.7%) Councils are still weak. There is only one female governor, compared to 15 male governors. In the diplomatic sphere, only 10.8% of the ambassadors of the state of Palestine are women, while 30.6 % of the diplomats and administrators working in missions abroad are women. Women constitute 19.2% of the total number of judges and 20.4% of the public prosecution staff.
25. The quota of candidates standing for the legislative election in 2006 was insufficient to advance women's realities and access to decision-making positions. According to the Palestinian Central Elections Commission (CEC) published data, the percentage of women candidates during the first phase of local elections in the West Bank was 24% and 27% during the second phase, while women who won within competing electoral lists was 20.5% declining to 18% in the second phase. It should be noted that 23% of women won their seats by acclamation, which indicates that women only maintained the minimum ceiling of the quota. These results confirm that the presence of women in electoral lists was due to the application of the quota system, thus pointing to a lack of social and political support for women's political participation.
26. Some districts voted in total absence of women's pictures in their campaigns. This phenomena of poor to no visibility of women candidates in itself constitutes a violation of women candidates' rights. The CEC received several complaints in this regard. However, the absence of binding legal texts to regulate local election campaigns has allowed for the prevalent culture and conservative approaches to take hold, leading to women's images being blocked in the campaigns.
27. In addition, the participation of young women in these spaces is further limited. Women's spaces are usually dominated by middle-aged women and often excludes young women and Palestine is not an exception. Young women's political leadership is usually diverse and inclusive and addresses a multitude of issues and topics in an intersecting manner²⁸.
28. We respectfully urge the Committee to include in its list of issues prior to reporting and make the following proposed recommendations to the government of Palestine regarding the violations of CEDAW addressed in this section:
- Amend article 5 of Elections Law No 9 of the year 2009 to specify a minimum 30% representation of women at all levels. The quota should extend to all branches and all levels of government (vertical and horizontal) and should also be incorporated into the private sector policies including ensuring representation at senior management levels and company boards. The government should also devise a matrix to implement and monitor the effective implementation of affirmative action.

²⁷ Palestinian Central Bureau of Statistics, 2021. Women and Men in Palestine: Issues and Statistics, 2021. Ramallah - Palestine.

²⁸ <https://www.un.org/youthenvoy/calltoaction/>

- Introduce legal amendments to the Electoral Act that would guarantee equal visibility for all election candidates, irrespective of gender, in addition to considering it a violation to block the image of any candidate.
- Develop a road map/ strategy that aims to increase the effective participation of young women in politics across Palestine.