

Palestinian Women and Security: The Legal and Regulatory Frameworks

In April and May 2010, the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Palestinian Working Women Society for Development (PWWSD) organised six working group sessions with service providers to promote a greater dialogue between organisations that provide security services to women and girls. The working groups were created upon the request of Palestinian stakeholders and built upon the findings of the DCAF publication 'Palestinian Women and Security: Why Palestinian Women and Girls Do Not Feel Secure' (February 2010). One session, entitled 'Promoting Gender-Sensitive Justice and Legal Reform,' brought service providers together to talk about the impact of the Palestinian legal and regulatory frameworks on women's (in)security. Individual meetings were also held with service providers to gain further insight into the Palestinian legal and regulatory frameworks.

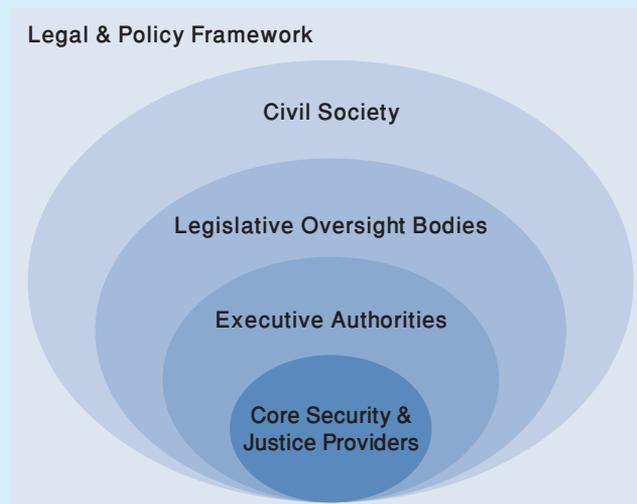
Why did DCAF and PWWSD hold these sessions?

A major finding of the DCAF report, 'Palestinian Women and Security: Why Palestinian Women and Girls Do Not Feel Secure' was that Palestinian women and girls perceive the current legal and regulatory frameworks as important impediments to ensuring their security and promoting their full participation in society. Against this background, DCAF and PWWSD decided to organise a series of workshops and interviews to improve their understanding of the legal and regulatory frameworks affecting the security of Palestinian women and girls.

Who participated in these sessions?

Participants included individuals from women's and human rights organisations, the Palestinian Legislative Council (PLC), the ministries, the judiciary, the media, and core security and justice providers. During the sessions, they discussed the following questions:

What is the Security Sector?



The security sector consists of the core security and justice providers and their management and oversight institutions. The legal and policy framework regulates their tasks, authorities and structures.

Core security and justice providers:

- ◆ Security forces (armed forces, police, intelligence and security services, but also liberation armies and insurgency groups)
- ◆ Justice and law enforcement institutions (courts, prosecution services, prisons, traditional justice systems)

Management and oversight institutions:

- ◆ Executive management and oversight bodies (Presidency, Council of Ministers, ministries of defence, interior, justice and finance)
- ◆ Legislative management and oversight bodies (Parliament and its committees, ombudspersons)
- ◆ Informal oversight institutions (civil society organisations, media, research and advocacy organisations)

- ◆ What are the laws affecting the (in)security of Palestinian women and girls?
- ◆ What are the gaps of the Palestinian legal framework in relation to the protection of Palestinian women and girls?
- ◆ Are Palestinian women aware of their legal rights?
- ◆ What are the challenges to gender-sensitive legal reform?
- ◆ What are the recommendations for improving the legal and regulatory frameworks that affect the (in)security of Palestinian women and girls?

What are the main laws affecting the security of Palestinian women and girls?

- ◆ Jordanian Penal Code, No. 16 (1960)
- ◆ Egyptian Penal Code, No. 74 (1939)
- ◆ Jordanian Personal Status Law, No. 61 (1976)
- ◆ Egyptian Family Law (1954)
- ◆ Public Health Law, No. 20 (2004)
- ◆ Labour Law, No. 7 (2000)
- ◆ National Election Law, No. 9 (2005)

What are the gaps in the Palestinian legal framework in relation to the protection of Palestinian women and girls?

In the DCAF report 'Palestinian Women and Security: Why Palestinian Women and Girls Do Not Feel Secure,' women and girls routinely cited the Palestinian legal system as discriminatory and ineffective:

'Palestinian women do not feel secure because the law is unfair (...). Concerning the personal status law, we depend on the unjust Jordanian law that is not fair to women.' (Housewife, Jenin, p. 47)

'Many laws like the social security law and the penal code make women suffer.' (University Student, Nablus, p. 48)

'Security is when there is a fair law for women, when I know that if I am abused, I will be able to refer to the legal system.' (Housewife, Jenin, p. 48)

'There is no protective legislation for women.' (Working Woman, Nablus, p. 47)

SOURCE: "Palestinian Women and Security: Why Palestinian Women and Girls Do Not Feel Secure", DCAF, 2010.

During the follow-up working group sessions, Palestinian women and girls commonly cited violence against women as causing the greatest amount of insecurity in their lives. This was confirmed by service providers. However, the meetings with service providers revealed that reacting to these insecurities was difficult given the lack of appropriate legal or regulatory frameworks, including the lack of an official definition of gender-based violence:

Absence of legislation addressing gender-based violence

Much of the current legislation in place was not regarded as specific enough by service providers to protect women from abuse:

'The law needs to have special regulations against abuse.' (PLC Member, Ramallah)

'There is no law on sexual violence. We can only advise the woman, but not intervene.' (Ministry of Health Representative, Ramallah)

'What we really need here is a law to protect women, especially to protect them from honour killing crimes.' (Counsellor, Ramallah)

Lack of a definition of gender-based violence

For many, there is not an adequate and all-encompassing definition of gender-based violence in Palestinian society and legislation:

'We need to work at the international level and define violence. There needs to be an introduction to violence in the school curriculum. We should work with the security forces and develop techniques to introduce the definition of violence.' (PLC Member, Hebron)

'If you look at the Palestinian law, verbal violence is not considered a crime. Verbal violence in the family is not a crime and therefore the police do not act.' (PLC Member, Hebron)

Lack of legal protection

Service providers were able to recount detailed stories highlighting the ways in which women have not been properly protected in the current Palestinian legal framework:

'At the police we see girls denying they were beaten because they don't want a divorce, or another beating, etc. They don't have any protection after leaving the police so they keep silent. There is no authority to go to prosecution. No clear law on what to do before or after.' (Police Officer, Ramallah)

'Three days ago we had a client that was afraid of being killed in the name of honour. When the police arrived, she refused to leave the building. We even had a counsellor with her. Finally she went out and the police spoke with her and took her away. She was very scared to deal with the police.' (Counsellor, Ramallah)

'Let's say a woman from a village goes to the hospital with bruises. The nurse and the doctor are not authorised to refer her to the police or a shelter. In one case I had, I told the woman to go to the police and she said, 'Do you want me to be killed.' If it wasn't going to happen from her husband it would happen from her family.' (Ministry of Health Representative, Ramallah)

Are Palestinian women aware of their legal rights?

Some service providers argued that generations of Palestinian women are unaware of the legal system, making it difficult for them to claim their rights:

'Our laws are unjust, women don't know their rights. It is documented that less than 20% know their rights.' (Counsellor, Ramallah)

'With early marriage, even women in their 60s don't know their rights. It is their right to turn their husband in if he beats them. Women don't know their rights; that they can ask for help, that they can have a lawyer, and that they can work.' (Ministry of Health Representative, Ramallah)

Conversely, other service providers challenged the belief that women were unaware of their rights. They believed that women were hesitant to use services because of a lack of trust in security and justice providers and in the legal system and the application of the law:

'I don't believe that women don't know their rights. They are aware, even if they live in villages. Maybe they say they don't know, but they do. Maybe they are just afraid to go to the police or the shelter.' (Sharia' Judge, Ramallah)

What are the obstacles to gender-sensitive legal reform?

The current political situation makes redrafting legislation for all Palestinians difficult. However, service providers acknowledged that little action has been taken to rectify these legal gaps whether due to the current political climate or the inability of the government to prioritise the security of Palestinian women and girls.

The Occupation

For all service providers, the greatest hindrance to effective legal reform was the Israeli occupation:

'In Palestine, we have the Occupation which makes applying the law even more difficult.' (Women's Organisation Representative, Ramallah)

Gaps in the current legal system

The current legal system is neither unified nor inherently Palestinian, containing a mixture of Ottoman, British Mandate, Jordanian, Egyptian and Israeli military laws that are secular and religious. Furthermore, tribal/traditional law features prominently in resolving local level or family disputes, sometimes superseding religious and secular laws. Palestinian service providers and women and girls agreed that the current Palestinian legal and regulatory frameworks are not responding to the needs of women. Service providers also spoke of Palestinian legislation that discriminates against women:

'There is no law or there are no tools to apply the current law.' (Women's Organisation Representative, Ramallah)

'The problem is the absence of legislation. There is nothing to regulate the courts, NGOs, and the hospitals.' (Women's Organisation Representative, Ramallah)

'It is very important to have a law for women's rights. I agree there is a problem with the traditions and norms, but there is a problem in the laws. Honour killings are linked to norms in the Penal Law. As for rape, the offender is allowed to marry the victim. How can the victim marry her rapist?' (Women's Organisation Representative, Ramallah)

'While some laws support women, other laws are against women's security, like the Personal Status Law.' (PLC Member, Hebron)

'There is no specific Palestinian law. The applied law is the old Jordanian law. There is a weakness in the law that strengthens the tribal system.' (Women's Organisation Representative, Ramallah)

Paralysis of the Palestinian Legislative Council (PLC)

Likewise, the political blockade and the resulting paralysis of the Palestinian Legislative Council (PLC), makes it impossible to implement long-term legal reform:

'The PLC is absent due to the political system. There are no laws that protect women in all aspects of their lives. The PLC is not able to redraft the Personal

Status Law. It is unable to change the Penal Code.' (Nablus Governorate Representative, Nablus)

Limited application of the law

There is general agreement among service providers that the limited application of the current laws promotes women's insecurity and makes it difficult for most service providers to perform their duties:

'Women have rights; it is just the application of the law that is an issue. There is no explanation on applying the law.' (National Security Representative, Ramallah)

'The law gives women their rights; the problem is in the application. Look at the Labour Law and the Personal Status Law.' (Police Officer, Ramallah)

The lack of prioritising legal reform

For some participants, the government did not see the reform of laws that disproportionately affect women as a priority:

'The government focuses on reforming certain laws, but ignores the Personal Status Law and the Penal Law. It doesn't want to face society on personal issues. However, if the Palestinian Authority wants to survive, these laws need to be reformed.' (Sharia' Judge, Ramallah)

What are the recommendations for improving the legal and regulatory frameworks that affect the security of Palestinian women and girls?

Reform of the current legal frameworks and supporting their implementation were seen as necessary steps for ensuring women's rights and security. Participants also believed that improving the legal literacy and awareness of Palestinian women would contribute to a positive framework for implementing reformed laws:

- ◆ **Undertake a legal study outlining gender-based discriminations:** Participants recommended undertaking a detailed legal study. This study should identify and list all provisions of the Palestinian legal framework which discriminate against women.

- ◆ **Enact a law addressing violence against women:** Participants recommended enacting and implementing a law which addresses specifically violence against women. They prefer a law which focuses specifically on the prevention of violence against women as a better option than amending general legislation. In their view, this avoids vague definitions and generalisations.
- ◆ **Redraft the Personal Status Law:** Participants recommended redrafting the Personal Status Law (currently based on the Jordanian Personal Status Law, No. 61 of 1976, and the Egyptian Family Law of 1954). Particularly, the age of marriage should be raised to the age of eighteen. This would enable women to achieve a better level of education before marriage.
- ◆ **Redraft and align the Penal and the Personal Status Law with the Palestinian Authority's obligations under CEDAW:** Participants recommended that the Penal Law (currently based on Jordanian Penal Code, No. 16 of 1960 and the Egyptian Penal Code, No. 74 of 1939) and the Personal Status Law be redrafted or amended in line with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).¹
- ◆ **Improve Legal Literacy and Raising Awareness:** Participants recommended educating Palestinian women on their legal rights. This could be done through awareness raising sessions as well as through texts illustrating their legal rights.

¹ On 8 March 2009, International Women's Day, the Palestinian President Mahmoud Abbas signed the CEDAW Convention.

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