

Way Forward: Priorities for Engendering the Rule of Law and Enhancing Women's Access to Justice and Security

- Strengthen capacities of line ministries to develop and implement gender responsive laws, policies and frameworks including guidelines and tools.
- Simultaneously, strengthen the capacity of civil society organizations to advocate for enhanced access to justice for women and girls, while improving delivery of specialized legal aid services.
- Promote the accession of Palestine to CEDAW by working closely with line ministries, the Council of Ministers and the President's Office by training and coaching on CEDAW, its Optional Protocol and its substantive obligations for state parties.
- Work closely with the Council of Ministers, as the main legislative body given the inactivity of the Palestinian Legislative Council, to conduct a gender review of draft laws and policies, including transfer of technical knowledge on CEDAW and other relevant treaties.
- Implement a holistic approach to service provision for women and girls by increasing the availability, accessibility, appropriateness and coordination of justice, security and protection services. This primarily entails sensitizing and enhancing the capacity of Palestinian civil police, public prosecutors, judges (in regular and Shari'a courts), lawyers and social protection actors to pursue the development and implementation of gender-responsive guidelines. Realize gender-sensitive infrastructures and gender-responsive budgets.
- Increase cooperation and coordination of justice and security services with specialized anti-violence centres.
- Ensure service providers' accountability by fostering internal and independent monitoring systems, and defining frameworks of action (development of staff job descriptions, standard operation procedures and guidelines, documentation and reporting mechanisms).
- Enhance victim-based, policy-oriented data collection regarding women's access to justice and security by supporting the expansion of the ICHR Judicial Observatory in the West Bank and Gaza Strip, also targeting informal justice processes. Strengthen the ICHR partnership with civil society organizations.
- Ensure an accessible and functioning referral system is in place, engaging social, legal, justice, security and health sectors.
- Raise awareness on gender-based violence, legal rights, available justice, security and social protection services among youth, in schools as well as through informal education programmes with the aim of achieving early detection and prevention.
- Advocate for the Palestinian Authority to continue prioritizing protection of women and girls' rights in Area C, East Jerusalem, Hebron's Old City and the Gaza Strip.

Data and information provided in this publication are extracted from the following sources:

Birzeit University, Women's Studies Institute (commissioned by UN Women, the Ministry of Women's Affairs and the Ministry of Planning), "Situation Analysis Report on Palestinian Women and Girls" (forthcoming publication); Ministry of Women's Affairs (with the support of UN Women): "Review of the 2011-2013 Palestinian Cross Sectoral National Gender Strategy"; PCBS, Violence Survey in the Palestinian Society, 2011 (March 2012); UN Women, "Policing for Palestinian Women's Security and Justice" (2013); UN Women, "Women's Access to Justice – Access Denied" (forthcoming, April 2014); and UN Women, "The Mehwar Centre – Women Agents of Change" (2012).



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WOMEN'S ACCESS TO JUSTICE & SECURITY



The rule of law, a cornerstone of good governance and democracy in any society, requires that laws are in place to hold everyone to account without bias or discrimination. However, when it comes to women, the rule of law is lacking. Women's lack of confidence in the justice system stems from their unfair experiences.

In the State of Palestine, women and girls experience multi-layered forms of discrimination and violence due to both external factors such as the Israeli occupation, and internal factors such as tradition, religion, and normative-generated conservatism. Rights violations occur in the private, as well as in the public sphere, affecting marriage/divorce, child custody, reproductive health and domestic violence, access to education, and economic rights, including the right to decent work and to inherit and control land and other productive resources.

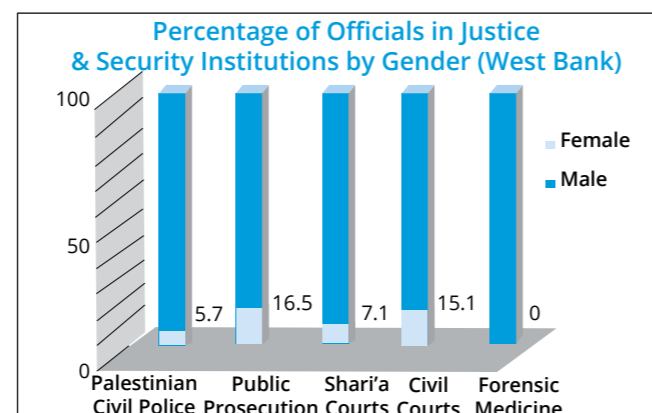
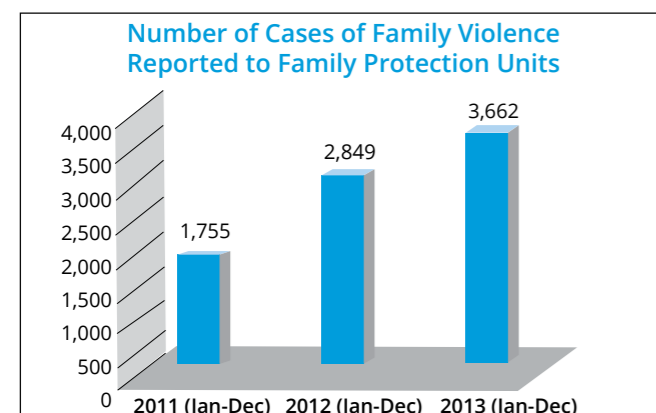
Making the rule of law a reality for women poses challenges at every stage: from inadequate and gender-biased legal frameworks, to ineffective implementation of laws and constitutional guarantees; from lack of accountability/oversight systems to gender-blind budgets and infrastructures. The "justice chain", the series of steps that a person has to take to access the formal justice system, often breaks down for women. This is mainly due to lack of capacity within the justice and security sectors, discriminatory attitudes of service providers, and a lack of consideration of the barriers women face because of socio-political constraints, poverty and insufficient awareness. A high level of under-reporting and attrition impacts women's criminal justice cases.

Facts and Trends

- On 8 March 2009, President Mahmoud Abbas adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by presidential decree.
- The Basic Law was amended in 2003 to guarantee respect for citizens' rights and liberties on the base of equality between men and women.
- Gender bias characterizes the Shari'a-based Jordanian Personal Status Law (1976), which impacts marriage, divorce, child custody, inheritance and other critical issues. Different laws and by-laws govern Christian courts that rule on personal status for Christians. A draft unified Palestinian Family Law, applicable across religious groups, is pending review and endorsement at the Council of Ministers.
- In August 2012, Shari'a Court Chief Justice Sheikh Yousef al Da'is announced changes in the treatment of woman-initiated divorce and judicial separation. Judges now have the discretion to determine if a marriage is harmful for the wife, rather than requiring her to submit evidence. Also, divorce proceedings must be completed in three months, husbands are banned from seeking unreasonable sums of money beyond the return of the dower in exchange for woman-initiated divorce, and women may initiate divorce without the husband's consent if the marriage was not consummated.
- The Jordanian Penal Code (1960) also does not adequately protect women's rights. Examples of discriminatory provisions include: non-criminalization of forced marriage; use of a gender-biased "crime of adultery"; rape requires evidence of "force", "threats" and

"deception", leaving raped unmarried women unable to prove the necessary "force" at risk of being criminalized for "adultery"; use of mitigating measures in the name of "honour"; lack of an offence related to intimidation or control; and lack of mechanisms to protect female victims of violence.

- Customary justice mechanisms are often adopted by families, especially with regard to violence, and women pressured into informal resolution of serious crimes committed against them.
- The minister of interior has established a Consultative Committee to coordinate and strengthen the work of the Security Sector Gender Units operating within each of the seven security forces. This committee is supported by the Prime Minister's Office, the President's Office and the Ministry of Women's Affairs.
- The Palestinian Civil Police is currently the most advanced in its specialization and systematization of gender responsiveness. It has ten specialized Family Protection Units operating in the West Bank, with a strategy, regulations and operating procedures endorsed in 2013, and standardization underway.
- Evidence suggests that these Family Protection Units are increasing incident reporting, a sign of increased confidence from women. Still, very few of these cases go to prosecution. Evidence collection, coercion and diversion to informal justice remain challenges.
- The Attorney General's Office has identified 20 "gender-sensitive" prosecutors to assess the need for special procedures in women's cases.



Front page caption: A Palestinian Civil Police Family Protection Unit police officer at a school sensitization activity on the unit's role (photo: UN Women/Rima Issa).

- Regular cooperation and coordination between specialized anti-violence centres (shelters) and the Shari'a courts, public prosecution and Family Protection Units - institutionalized in the "Case Conference" mechanism - have proven crucial for increasing justice and security sectors' responsiveness to women's rights.
- Women's representation in security and judicial institutions remains low, and confined to low ranks.
- Lack of access by security forces to Area C, East Jerusalem and Hebron H1—all fully controlled by Israel—is another obstacle to justice for women.
- A Judicial Observatory on Violence Against Women was established in 2011 within the semi-governmental Independent Commission for Human Rights (ICHR). The observatory monitored 54 cases in court, 12 cases at public prosecution, and 37 cases of women sheltered in safe houses. Since 2013, it develops and releases an annual report of the data collected and cases monitored during the year.
- A "Serious Case Review" ministerial mechanism was established in 2013 to identify systemic justice and protection gaps and viable responses, following a sharp increase in the number of femicide cases (12 in 2012; 27 in 2013).

Review Report on the National Cross-Sectoral Strategy for Promoting Gender Equality 2011-2013

The National Cross-Sectoral Strategy for Promoting Gender Equality 2011-2013 adopted as one of its strategic goals "to enable women to enjoy a family law and civil rights ensuring equality and equity." To achieve this goal, the strategy defined one policy and seven policy interventions.

Policy	Interventions	Executed	Partially executed	Not executed	
■ Taking all legal, legislative and operational measures to reinforce the principle of gender equality and equity in personal status and civil rights.	■ Enacting the Unified Palestinian Family Law			X	
	■ Amending marriage contracts to ensure the inclusion of all rights for Palestinian women		X		
	■ Raising awareness among girls and women about their inheritance and property rights	X			
	■ Disbursing the funds allocated to the Maintenance Fund from the Palestinian Authority budget				X
	■ Ensuring that the draft Civil Status Law provides for a woman's right to choose between her own or her husband's family name in her personal ID card and passport			X	
	■ Documenting marriage contracts and divorce in Shari'a courts and requiring divorce to be granted by the court only		X		
	■ Computerizing all data related to marital status and linking all courts through an intranet			X	

These results highlight the difficulty of realizing rule of law reforms in Palestine as a state under occupation characterized by plural legal frameworks and justice systems, political fragmentation and inactivity of the main legislative body, among other challenges.