

Research Summary

ACCESS DENIED

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



June 2014

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Palestinian territory

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Disclaimer

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Research Team: Prof. Nadera Shalhoub Kevorkian

Edited by: Women's Human Rights Programme, UN Women office oPt

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United Nations Entity for Gender Equality
and the Empowerment of Women

Foreword

Access Denied was initiated by UN Women in August 2012 with the aim of closely examining the socio-political and psychological factors that impact the access of Palestinian women to justice in the West Bank area of the occupied Palestinian territory. The study also highlights the compounded ordeals faced by women victims of violence living in Areas C and H2, which together make up roughly 60% of the West Bank and remain under the full civil and security control of Israel and the Israeli Army. Some 150,000 Palestinians live in Area C with many more Palestinians living in Area B while pursuing their livelihoods in Area C.

According to numerous reports by UN OCHA and Israeli human rights organizations, Israel violates the basic human rights of Palestinians and International Humanitarian Law in the West Bank and most prominently in Area C in manifold ways. Not only has Israel constructed settlements with some 500,000 settlers living in them in the West Bank, but it has created an access regime that hinders the physical movement of people and goods. These physical impediments to access have far reaching impacts on every aspect of life and livelihood of Palestinian children, women and men. The severity of the situation has particular impacts on female Palestinians who bear the brunt not only of the occupation but also of longstanding discriminatory, inequitable and patriarchal practices rooted in a traditional and tribal society that views women as obedient auxiliaries of male dominance. Patriarchal attitudes reign not only on the micro family level, but permeate by proxy into communal and state institution levels, contributing to further marginalization and exclusion of women in the Palestinian society.

Many judicial and security institutions are male dominated and provide for limited access both physically and procedurally by Palestinian women particularly those residing in Area C. Even in best case scenarios where women manage to access justice services, they find themselves faced with service providers who lack professional knowledge in dealing specifically with women and girl victims of violence and who continue to interpret the outdated laws pertaining to the penal code and personal status law in contravention of women's rights.

In order to be able to expose the injustices that women face while attempting to access justice, evidence-based data is needed to inform policymakers as to gaps and needs that should be addressed in order to comply with international treaties, due process and ultimately the rule of law. The current research sheds light on the processes that women victims of violence go through as they seek access to justice in the West Bank. The research team was made up of both researchers and field workers, the latter being in close contact with female victims/survivors and women in conflict with the law. The women they interviewed described in detail each and every step of the process they went through and attitudes they faced. Moreover, the researchers examined cases to understand the litigation process and its weaknesses.

Within this context, it is important to recognize that any form of positive change to the existing justice system will not reach fruition in the absence of comprehensive justice for the Palestinian people with an end to the occupation. No tangible improvement towards the rule of law can be effected if violations of Palestinians' human rights and of International Humanitarian Law remain unaddressed.

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1. Rationale

Access Denied examines the socio-political and psychological factors impacting Palestinian women's access to justice in the West Bank. The aim of the research is to analyze the relationship between Palestinian women's accessibility to justice services and their experiences with the local Palestinian legal system and the more complex militarized Israeli regime within which it is embedded. This applies to both formal and informal institutions. At the same time, the research exposes the various physical and psychological layers of spatial, procedural and behavioral constraints that women face when seeking redress. The research further looks at the considerable obstacles Palestinian women face if and when they come into contact with civil society organizations, political institutions as well as formal and informal Palestinian and Israeli social and political institutions, in their quest for justice.

In particular, the research examines the following questions:

- 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?
- Which challenges do women face when they engage with the formal and informal justice systems in the West Bank?

One important reason for embarking on this research was the growing recognition of the difficulties faced by formal and informal justice institutions in their efforts to offer gender-sensitive access to justice for women living in conflict zones. Hence, the research examines and analyzes potential resources available to women when they require the intervention and involvement of the justice system. To do so, the researchers began by soliciting women's stories, not only of their experiences with the formal justice system, but also the hardships they and

their female friends have 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.

Prevention of abuse and the protection of women from violations and abuse go hand in hand and cover aspects such as ensuring that women and girls have access to services such as welfare, legal services and protection, access to the workplace, health services and institutions such as hospitals, access to their land and more. Additionally, prevention and protection also include defending Palestinian women against the patriarchal system and practices embedded in their traditional society, as well as in the context of the occupation.

Access Denied's main conclusion is that without examining and tackling the structural factors affecting women's access to justice and the politics of bureaucracies of justice and the responsible, comprehensive, and contextually sensitive formal and informal socio-legal system 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 from a hybrid of archaic systems that are gender blind, within a political and socio-legal framework that violates the basic right of women to access justice, will lead to further entrenching gender-discriminatory structures and practices that allow the abuse of present and future generations of women and girls. 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.

It is paramount to always bear in mind when addressing women's access to justice that women's rights are human rights. Therefore, access to justice for women requires adopting a rights-based approach that addresses all levels be they structural, institutional, social,

economic and political in a comprehensive and wide ranging manner that ensures the protection of women is preceded by prevention on all levels. Moreover, extensive cooperation and coordination is required from all stakeholders involved on all levels in order to provide timely and quality services to women. Hence, in order to fully comprehend women's accessibility or inaccessibility to justice, it is pertinent to address among others, women's property rights and interventions in cases of divorce, inheritance, spousal abuse and political violence. Justice for women is not only about passing laws and regulations which respect women's human rights and foresee women's redress; it is also upholding and enforcing the law, taking into consideration the specific needs of women and girls. In this manner, justice systems can function as a response as well as a preventive measure against women's rights violation.

2. [The Socio-political and Legal Context of the Research](#)

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 in ensuring effective reforms. This research describes and maps out what Palestinian women face as they navigate their way through the system while attempting to access justice within their communities.

Access to justice is critical for women living in conflict or post-conflict situations, as well as in the context of occupation and other oppressive systems. Access to justice is, therefore, of particular importance in the specific context of the West Bank and of the occupied Palestinian territory.

Access Denied's analytical point of departure perceives the denial of women's access to justice as a tool of patriarchal control in the context of a prolonged political conflict. The analysis is based on a cross-sectoral approach that looks at all the surrounding and overlapping elements of women's access to justice.

The dominance of violence, poverty and lingering crisis in the context of a protracted occupation perpetuates the denial of violence against women as well as the failure to comprehend the intricacies of this violence. In the West Bank context, when Palestinian women attempt to seek redress by accessing the justice chain, they face destruction 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. The process of constant dispossession and continuous political violence turns women who need to access the justice system into ‘dissenters’ who should be silenced, hidden and/or eliminated. Women living under such unjust conditions, particularly when requiring access to justice, are identified as external and internal threats to their communities and to society at large. Gender discrimination under such conditions marks women’s lives and bodies as “abnormal.”

In the case of Palestine, the research clearly underlines the importance of examining women’s access to justice by also intensively looking at the co-relation between the social patriarchal system and the occupation and how this impacts women’s accessibility and inaccessibility to justice.

Formal and informal justice mechanisms characterize in the judicial system in the West Bank. Civil society and women’s rights organizations play an important role in addressing and raising awareness to justice-related issues. Civil Society’s role often complements and sometimes interferes with the existing informal and formal justice systems. Since its establishment in 1994, the Palestinian National Authority 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 Palestinian Civil Police. This research attempts to understand women’s access to each of these institutions in addition to the existing socio-legal framework, and to reveal the role that each level plays towards enabling or preventing women’s access to justice within the West Bank. To further elucidate the existing structure of justice in the West Bank, two main factors among many others (such as poverty, unemployment, the role of civil society organizations, etc.) were elaborated and identified as being key 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 is worth noting that although the court represents women’s last resort in the justice chain as evident from the women interviewed, the court’s power and role in replicating patriarchal norms and transforming women’s accessibility to justice was perceived to be major. In addition, the effect of geopolitical as well as political and economic factors should not be underestimated.

The context and characteristics of Area C and H2 of the West Bank

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 was placed under Palestinian civil and shared Israeli-Palestinian security control

Area C remained under full Israeli security and civil 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.

Area C makes up about 62% of the area of the West Bank with a Palestinian population of about 5.8%. Palestinian presence in Area C has been routinely undermined through different administrative measures, planning regulations and other methods adopted by Israel as the occupying power. Prior to 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 whom 70% live in Area A in Jericho).¹ The increasing incorporation of Area C into Israel proper has left Palestinian

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

communities in the area ever more isolated. 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 National Authority to access Area C has severely impacted women and girls' accessibility to essential services and deprived them of services such as education, welfare, health, police, courts and more. With no official PNA presence, augmented by economic vulnerability and deprivation and military control, women and girls' physical safety and psychosocial security is jeopardized. Palestinians living in Area C have to contend with a range of restrictive Israeli policies and practices, including restrictions on movement and access and attacks and harassment from the Israeli military and settlers, which makes daily life a never-ending struggle for the Palestinian population. These restrictions drive already impoverished families deeper into poverty.²

Existing conditions in Area C have resulted in the "double exclusion" of women and have created an inordinately complex context for those who seek access to justice. Because the Palestinian judicial system is still influenced and structured by a mosaic of Ottoman, British Mandate and Jordanian laws promulgated in the twentieth century, this research also attempts to expose the deficits in the old laws and suggest legal reforms necessary to free women from this antiquated legislation.

The H2 area makes up 4.3 sq. km of Hebron City. Under the Hebron Agreement in 1997,

² United Nations Office for Coordination of Humanitarian Affairs, occupied Palestinian territory. (2011). Humanitarian fact sheet 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

the City was divided into areas designated as H1 (18 sq. km., under full PNA control) and H2 which is under full Israeli control and home to most of Hebron's settlers, as well as more than 35,000 Palestinians. The spatial restrictions on movement, added to the Israeli Army's severe modes of surveillance and control the lack of vital services such as health, education and welfare have a heavy and direct impact on women and girls' lives. This research brings to the forefront Palestinian women's words, experiences and reactions to the intrusive conditions that compromise women and girls' human rights and their ability to access justice. Over the years, many of the Old City's inhabitants have left due to the harsh living conditions instituted by the Israeli Army, which favored Israeli settlers to the detriment of the Old City inhabitants. Economic activity in the Old City dwindled resulting in a lack of livelihood and increasing poverty. The exodus of the Old City inhabitants has been compounded by the migration of Palestinians from some parts of the West Bank taking advantage of the fact that the Old City is inaccessible to Palestinian police or institutions. Some Palestinians, wanted by the Palestinian National Authority for crimes that they have committed, have consequently found a safe haven in the Old City. In parallel, women victims of violence residing in this area find it extremely difficult to leave the area for protection and in order to file complaints and seek redress.

3. Methodology, Target Group and Target Locations

The research used qualitative research methodology, which can reveal meanings, processes and attitudes. This methodology gave a voice to Palestinian women and documented their experiences with the legal system in the West Bank. The research applied **qualitative research** tools such as semi-structured interviews and textual analyses of relevant documents. Fifty-six women aged 19 to 50 were interviewed.

They came from four main Palestinian areas: Bethlehem, Ramallah, Nablus, and Hebron. The research included the following types of cases: sexual assault and rape, violence within the family, divorce and females whose lives had been threatened. The research participants had the following social statuses: widowed, divorced with and without children, re-married after divorce; married without children, married with children but separated, and single. The interviews also incorporated actors in the legal system, including, without being limited to, lawyers, prosecutors, judges, directors of legal institutions affiliated with the Palestinian National Authority (PNA), activists and workers at relevant Palestinian NGOs.

In addition, focus groups were conducted with women, including young women living in Areas C and H2, as well as in Area H1. These focus groups also included women in conflict with the law. Analysis was carried out on relevant laws and previous studies on the issue were also reviewed.

The research is based on “phenomenology”. The purpose of the phenomenological approach is to illuminate and identify the structure and the characteristics of a phenomenon through the actors who experience it themselves, through qualitative methods such as interviews, discussions and participant observations.

In order to provide a holistic picture of women’s access to justice, the research was conducted through several levels and stages based on the **Grounded Theory** strategy, which is defined as theory grounded or rooted in observation.

Stages of the research

1. “Reading and Feeling” the field

Prior to starting the research process, the researchers and field workers reviewed the theoretical background. The next step was to interview the main actors and stakeholders in the civil society and legal system. These 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

Based on “reading and feeling” the field, semi-structured interviews were designed and prepared. The core interview questions were distributed to the research team for their review. Once feedback was received, the final version of the interviews was prepared. It was decided to interview the women first, as it was crucial to hear their experiences and their journeys within the legal system in order to get a detailed picture that would assist in preparing questions for the NGOs and legal system agents.

3. Interviewing women—Experiencing the field

The first step prior to interviewing the women was to address a letter through UN Women to the Palestinian Attorney General’s Office requesting legal permission to enter the various institutions of the Palestinian National Authority. Another letter was addressed to various PNA ministers requesting permission to access the institutions under their ministries’ authority, including shelters, Correction and Rehabilitation Centers (prisons), police stations and Family Protection Units, and courts. After receiving permission to conduct the 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, a meeting was held with the ICHR to share initial findings and

collect data from monitors in the field. It was the first step in validating readings with data in the field based on women’s voices. Maps depicting the basic processes and procedures illustrating women’s access or lack of access to justice were drawn.

84 Interviews were conducted

56 interviews with women victims and survivors of violence from diverse localities



28 interviews with workers in the formal and informal legal system



Focus groups: 6 focus groups with 98 women and social-control agents were conducted

12 case studies used for analysis:



Age group of the women interviewed for this research:



Case studies’ situations:



5. Second round of interviews

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

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

After completing the interviews in stage 5, the material was analyzed and new themes emerged from each group of interviews with women, NGO workers, legal institutions and legal workers.

7. Focus groups

The last round of interviews was conducted with 98 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. 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 residing in Ramallah with some of them living 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 institutions of the Palestinian National Authority (6 and 11 participants respectively). A final focus group that aimed at triangulating the analyses was conducted with 15 college women who crossed checkpoints, lived inside the West Bank, with about 6 of them commuting to their college from Area C.

8. Case studies

In addition to the women, various other actors such as lawyers, police officers and prosecutors

were interviewed, without interviewing the women involved in the cases. Through these testimonies, 10 additional case studies that had reached the Palestinian legal system were collected. These cases provided more professional insight than had been provided by the initial interviewees.

4. The Palestinian Court System in the West Bank

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

Regular court system:

The *first level* in the Palestinian regular court system 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 Criminal Penal Law.

The *second level* is the Court of Appeal. The Court of Appeal's sessions are convened by three judges who hear appeals on civil and criminal cases.

The *third level* is the 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 of the Conciliation Court, which reviews violations of municipal laws.

The 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. However, the enforcement of Religious Courts' sentences is dependent on the Regular Courts.

The 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."

"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 where 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.

Israeli Martial Law:

Israeli military law continues to have extensive direct impact on the daily lives of Palestinians living in the West Bank. While Israeli civil law is applied to Jewish settlers living in West Bank settlements, Palestinians are governed by military laws. Having two sets of laws for the West Bank highlights further the discrimination under which Palestinians are living. Martial law further cements the occupation regime and reflect the local political reality in which Israel has the power to detain Palestinians, restrict their freedom of movement, limit their accessibility to natural resources, confiscate their land, and declare curfews. Permits issued by the Israeli military are required for almost all aspects of life, including construction, work in Israel or East Jerusalem, and mobility throughout the West Bank. This research attempts to navigate between these countless impediments to an equitable and victim-oriented “justice” system and explores how Palestinian women’s access to these various institutions with different types of cases based on different needs and rights (criminal, political, civilian etc.) affects women’s access to justice. By focusing on women’s experiences, the research sheds light on access to justice for socially and spatially marginalized groups in occupied areas, such as Area C and H2, where women become mere objects of control by both the occupying legal regime and the archaic patriarchal Palestinian legal practices.

5. Excerpts from First-Hand Accounts by Women and Girls Victims of Violence and Women in Conflict with the Law

The following are excerpts from a selection of first-hand accounts, which highlight some of the research’s main findings. Names have been changed in order to protect the privacy of those concerned.

Alia was eight years old when she and her three sisters witnessed their father abusing their mother. The 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 a divorce, but failed to support the young girls.

Alia stated: “Even when I needed help getting back into school, the social worker stated that this was 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.”

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 for 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 psychiatric hospitalization. She was treated in the psychiatric hospital and released to her mother’s care. 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.

Later, the father managed to find her sister and brought her to his place inside the Israeli border as well. At one point, and after suffering long term 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, Alia 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.

“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 organization, then in the prison, and lately in the shelter—they all fail to understand the meaning of life without any hope. He [the father] killed us alive, 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.”

The narratives collected in this research 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. Of the women in the former category, many observed that economic hardships such as poverty and severe economic destitution blocked them from even reaching out for help or following up with social welfare or police. These women insisted that their own and their family’s severe economic vulnerability 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.”

Asking for help, and the mere disclosure of their abuse in public and to the police, or confiding in a community leader (mainly political or religious leaders) exacerbated their ordeal. Some cases discussed in the focus groups indicated that even females who have received their family’s support, the plurality of the legal system and the political restrictions facing women obstructed them from accessing justice.

On the impact of geographic fragmentation

“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, and 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 now, 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” (Nuha, 25)

As in the case of Nuha’s sister, described above, women and their helpers often could not protect their right to justice due to geographic and legal factors. Abusers and perpetrators escape to Israel knowing that it is difficult for most Palestinians from the West Bank to enter Israel due to the permit system, checkpoints and closures. The same applies to females whose abusers fled to Israeli-controlled areas of the West Bank, such as Area C or H2. Their right to access justice was often denied. Inability to access justice was also revealed in cases of young girls being married to men who hold Israeli IDs and how their husbands and/or abusers deprived them from their children, from their right to economic support and from bodily safety and psychological welfare.

On social control and the stigmatization of women victims and survivors of violence

Women become victims/survivors of abuse not only due to external political and economic factors or on the part of 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 for the help of a male cousin, who exploited her vulnerability as a young girl in dire need of 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.” (Angham)

“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.” (Samar, 33)

On the failure to protect women from violence

“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?” (Naela, 27, justice institution worker)

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 with interviewees’ narratives, we found that the situation is indeed dismal. Our data reveal that after women try all possible internal (family and community) ways to stop violent abuse and finally realize that they cannot prevent it by themselves, they decide to approach the police. In some cases, the police then take the file to a public 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 dropped or tried by the Shari’a court, the civil court, or sometimes even the national security court, increases women’s sense of helplessness and discourages them from pursuing justice through the formal justice system.

Personal connections and corruption

“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.” (Riham, 20)

“My brother and my father are well connected, and they know everybody in the security apparatus. So who am I to challenge them?” (Maram)

Data indicate that a “personal connection” with the security and political apparatus added to women’s lack of confidence in the system’s integrity. In addition to this lack of credibility, the lengthy legal process and the inability of the criminal justice system to proceed swiftly due to procedural and political impediments exacerbated women’s distrust in the justice system.

Impunity and re-victimization of victims

The research 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, such efforts led to her being raped, subjected to constant psychological intimidation in addition to attempts on her life, i.e. femicide.

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 at 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.”

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”. All interviewees for this research, be they actual women victims/survivors of violence, women who were not victims/survivors as well as social control agents 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 continuous violence throughout the rest of their lives.

The stories of other women suggest 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 and human rights organizations) are failing to protect victims/survivors’ rights to stay in their communities and their rights to safety and to a dignified life. Allowing abusers to 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.

6. Key Findings

One clear finding of this research is that ALL women victims/survivors of violence interviewed believed 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.

From the accounts above of women and girls who have been subjected to violence, three main themes are evident that pose challenges to women’s access to justice. Women and girls’ personal vulnerabilities subject them to the manipulation of stronger and more powerful family members. If and when women decide

to reveal their ordeals, they face a myriad of difficulties, the most prominent and imminent of which is their lack of access and ability to move within the West Bank.

1- Geographic fragmentation

Access is a key prerogative for seeking redress and due process. The lack of access to urban areas where police, prosecutors and courts are present is juxtaposed with the ability of perpetrators to seek refuge in the ever complex closure regime created by the Israeli occupation. Perpetrators find safe havens in most notably Area C, Hebron's Old City (H2) or other Israeli controlled areas, where Palestinian police have no jurisdiction or access.

The research clearly shows that the geopolitical fragmentation/closure regime of the entire area of the West Bank has a negative impact on the access of women to justice services and to due process. Women report extensive time spent when calling for or receiving assistance. This results in delays in securing the safety and the lives of these women. Area C of the West Bank and Hebron's Old City (H2), where the Palestinian National Authority has neither civil nor security sovereignty, has become a refuge for perpetrators fleeing justice.

2- Inadequacy of spatial infrastructures/premises

Similarly, women interviewed for the research described inappropriate spatial infrastructure/premises that do not respect the right to privacy and contribute to exposing women victims of violence to further stigma and social shame.

The excerpts further illustrate constraints related to lack of awareness on the part of women victims of violence of their rights, coupled with a lack of professionalism on the part of the institutions (police, prosecution, courts and ministries) to protect these women and secure due process and uphold standard operating procedures.

3- Gaps in the justice system

The research indicates manifold gaps in the justice systems. The legal framework for Violence against Women (VAW) victims can be described as inadequate with multiple discrepancies. The Penal Law which is currently in effect in the West Bank is outdated and has not been adapted to new needs and to the evolution of the Palestinian society. Laws are still interpreted to serve the perpetrator and not the victim. Legal procedures remain slow and inefficient. This pressures women victims of violence to opt for the informal justice mechanisms, which often do not do the victim justice. A potential reason for the spike in the number of violent incidents against women and girls could be that the majority of these cases are being handled outside of the framework of the law, in a tribal and patriarchal manner, where the victim finds herself continuing to live in the cycle of violence with greater threat to her life. These constraints can be described as procedural challenges and should be rectified in order to safeguard a rights- and protection-based approach for the victims.

In a society which is quickly emerging into the 21st century and developing at a fast pace, conservatism still persists and can be felt throughout the justice chain. Certain attitudinal aspects of professionals handling VAW cases remain unchanged. Most notably, the research has highlighted various problematic police behaviors that require reform: criticism of women coming to file a complaint on violence against a husband, brother, father, etc.; cultural stereotypes; inquisition-type interrogations; etc. These behaviors have been noted by the women as intimidating to say the least. In many cases, women regret lodging complaints against their abusers for the very reason that filing the complaint becomes a re-victimization of particularly their sexual traumas, at every step of the way.

7. Main Recommendations:

Only when the occupation ends will Palestinians be able to pursue normal lives with freedom of movement and sovereignty over all areas.

Nevertheless, while the occupation persists, the Palestinian security and justice apparatus has to explore ways to assist women victims of violence to access justice services. The infrastructural space where women feel safe and secure to lodge their complaints should be made available at all stages of a women's quest to pursue her rights. Hence, seeking redress should not have an adverse effect on the victim's dignity, respect and right to privacy, confidentiality and safety.

1. 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 and girls' access to justice in the West Bank.
2. The Palestinian Penal Law has to be reformed and adapted to ensure greater protection for Palestinian women and girls. Laws related to domestic violence and abuse in particular, and laws in general, have to be gender sensitive and responsive. Specific laws addressing violence against women from a human rights perspective and covering existing legal gaps should be formulated and endorsed. The capacities of all actors in the justice sectors have to be raised and standard operating procedures upheld in a systematic and comprehensive manner. The informal justice system should be discouraged and its use should be reduced to refereeing simple conflicts in society. Women should be made aware of their entitlements and rights and the security and justice pathway made clear and known to the public. Perpetrators have to face the consequences of their actions and be made accountable before the victim and the state. Only when due process is ensured, can there be rule of law.
3. Criminal justice system personnel should:
 - 1) be better trained and become sensitive and attentive to women 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.
4. The recruitment and sound capacity building of female staff throughout the security and justice apparatus will be a catalyst in encouraging victims to come forward, lodge complaints, relate openly what they have been through and be assisted and guided throughout the due process by professional female social workers. Well trained and sensitized staff will in turn become the voice and advocates for women's rights and to the right of all women to enjoy a dignified and violent-free life.
5. Tantalum to access of women to justice is economic justice and security. Women have to be empowered economically. Economic empowerment provides women with the ability to make their own decisions and act upon them. Women would feel a greater sense of purpose when they are economically independent which would also contribute to greater freedom of choice and freedom of movement.
6. Economic justice goes hand in hand with education and awareness. Awareness raising campaigns in schools and in especially vulnerable communities have to be planned in order to inform women about the justice

path and how they can access it. Women should know that the state itself is in charge of their welfare and that the state should do its utmost to uphold laws, prevent abuse and protect women. Knowledge and awareness are both fundamentals of prevention and protection.

7. 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 socio-economic 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 processes 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."
8. Central to providing women with access to justice is preventing as far as possible their re-victimization. Sensitizing actors within the justice path, as well as social protection actors, to the needs of women victims/survivors of violence and women in conflict with the law will help in reducing the re-victimization of the victim. Providing psycho-social and psychological support to the women victims will allow for better rehabilitation and will aid the women to promptly take charge of their lives and destinies.
9. In order to tackle some of these challenges, it is worth exploring alternative justice chains along the lines of the One-Stop-Shop in South Africa, which houses under one roof police, forensic, health, legal and psychosocial

assistance. Moreover, in the fragmented territory of the West Bank, the option of mobile courts, which can swiftly respond to women's needs could be explored

10. Redress for women and girls victims of violence requires collaborative cross-sectoral work. The efforts of all stakeholders must come together in unison in order to uphold the law and ensure women's rights. Therefore, an interdisciplinary committee made up of stakeholders from ministries, police, prosecution, courts and NGOs including also representatives of shelters should be established quickly to follow up on bridging the gaps and acting upon the key findings and recommendations of this research.

The Palestinian Authority should seek international intervention in cases where its accessibility is prevented by Israeli restrictions, such as in Areas C and H2. The United Nations should prioritize areas such as Area C and H2 where spatial restrictions and conflicting paths to justice make justice the least accessible to Palestinian women who live there.

[Specific recommendations to stakeholders:](#)

CAPACITY DEVELOPMENT

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.
2. 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 interests first. Training should be conducted by feminists and human rights activists that hold

women victims/survivors at the centre of their work and intervention.

3. 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.
4. 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 stakeholders in this regard.

CREATING SPECIALIZED SERVICES, SYSTEMS AND TOOLS

1. The various institutes of the Palestinian Authority should develop specialized services offering administrative, legal, social, economic and psychological support, as well as protection, to women seeking to have access to the justice system.
2. 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 Violence against Women (VAW) cases. A holistic case-management approach has to be applied.
3. Case management by workers and officers working on a given case, could support women and girls' access to justice, including by promoting the development of a Victim Impact Statement (VIS) to be used in the court.
4. 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.

5. A woman's initial call for assistance in a VAW case should involve immense efforts on the part of stakeholders, to enable a smoother and more secure access to justice. Follow-up inquiries into new cases should be common practice among stakeholders involved.
6. In femicide cases, including cases where women are under an 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. c) Prevent situations where legal proceedings in VAW cases become lengthy.

ENHANCING NORMATIVE FRAMEWORKS

1. Rules and procedures should be introduced which enable individuals to file a complaint and ask for compensation against any state official (governors, police personnel, Family Protection Units, 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 domestic abuse cases.
2. Leaders of the various Palestinian justice, security and social protection systems should promote multi-agency cooperation in order to

adequately respond to women and girl's needs.

INCREASING ACCOUNTABILITY

1. Women and girls should not be imprisoned without a detention order or held in shelters against their consent for prolonged periods. This is the Palestinian Authority's responsibility, and those in charge should be held accountable and sanctioned when such cases occur.

2. 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. In practice this means identifying cases and examining the process women followed in their search for access to justice.

3. The *Shari'a* court's positive and gender-sensitive efforts to promote women and girls' access to justice should be supported by the state institutions and criminal justice system.

4. 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, the study recommends strengthening the experience of the Observatory on VAW, established within the Independent Commission for Human Rights (ICHR).

5. 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.

MOBILIZING THE COMMUNITY

1. 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.

General comments:

A recommendation is needed on donor and PA commitment to support holistic services and complementarity/ continuum in the resources and roles of the different justice, security and protection key actors and stakeholders (Ministry of Justice, Ministry of Interior and Ministry of Social Affairs)

Finally, it is noted that a similar study is needed to examine women's access to justice in East Jerusalem. Additional research should cover the Gaza Strip and two additional studies would map out the access to justice situation in the whole of the occupied Palestinian territory, shedding further light on challenges that have yet to be addressed in order to provide women with due justice.

For more information please contact:

UN Women oPt
Alami (UNOPS) Building
Rosary Sisters School Street, Dahyet Al Barid
PO Box 51359
East Jerusalem

Tel.: +972 (0) 2 628 0450

Fax: +972 (0) 2 628 0661

Email: opt.co@unwomen.org
<http://palestine.unwomen.org/>
<http://www.unwomen.org>