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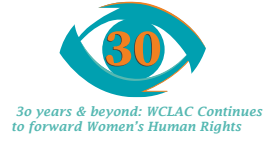
Access to justice for women victims of violence In Palestine

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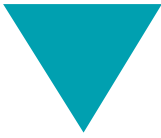
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State parties undertake “To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination.”

CEDAW, Article II, Paragraph C



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Introduction

The rule of law constitutes the cornerstone for good governance and democracy, which requires achieving gender equality and subjecting everyone to its provisions. The law is also an essential element in social change. It contributes to the development of rules and provides a framework for translating international human rights standards - including women's rights - into national standards. At the national level, the law can also provide a vital mechanism for women to hold individuals and institutions accountable and prevent abuse of power in various forms: social and moral against women, especially within the family and the workplace.

However, for women and girls in Palestine, the truth is that the rule of law means little in practice as the privileges of men are often rooted in customs and traditions and in the cultural heritage that controls the mentality of society that makes prejudices before the rulings of courts. Thus, it is hoped that attempts can make courts more capable of facilitating women's access to justice and the police and Public Prosecution Office more responsive to their complaints, and other necessary reforms in the administration of justice that are out of reach.

Despite Palestine's accession and ratification without reservations to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2014, and expanding the legal entitlements for women in many contexts, including amendments to the Jordanian Penal Code No. 16 of 1960, nevertheless Progress in this area is still limited. This is due to many factors, the most important of which is having laws that explicitly discriminate against them, for example restrictive interpretations of the Personal Status Law. In addition, entrenched discriminatory and gender-biased attitudes, norms, and practices - including by justice practitioners and members of society - that prevent women from accessing justice.

This report seeks through its review of the effectiveness of national legal laws, and their compatibility with international human rights standards, to achieve equality for women and enable them to access justice.

The report also seeks, through a review of the judicial rulings and the procedures that accompanied those rulings, to analyze the obstacles preventing justice for victims and empowering women to access justice in Palestine, to arrive at the results reached, and to propose recommendations on procedures and policies to follow in this field.

It is noteworthy to mention that this initiative is a pioneering initiative in the Palestinian territory, as a monitoring mechanism for the women's justice system, and this initiative comes in cooperation between the Women's Center for Social and Legal Counseling and UN Women, through the Sawasiyah project, in interventions related to supporting women's access to Justice.

Monitoring Team:

In achieving this project, the Center formed a monitoring team of lawyers from the West Bank governorates. The monitoring team received training on having monitoring skills for several training sessions to ensure that they possess the required monitoring skills. The training included the following areas:

- Training on monitoring and documentation.
- Review of national legislations and international agreements related to women's rights.
- Reviewing fair trial guarantees for women.
- Guarantees of women's access to justice.
- Training on preparing monitoring and documentation forms.

Topics of the cases monitored and analyzed:

- Minor and severe abuse, which accounted for the largest number of cases, 14 cases.
- Indecent assault, 3 cases.
- Rape, 3 cases.
- Threat, one case.
- Attempted murder, one case.

Report methodology:

The report contains an introduction, an executive summary, three parts and an appendix that contains the cases that have been reviewed, namely, cases of harm (minor and serious), rape, indecent assault, threats and attempted murder cases. These files contain indictments issued by the Public Prosecution, hearing records and final judicial decisions in the first level litigation.

In following the qualitative analytical methodology, the report was divided into three parts: **The first part** addressed the legal framework for women's access to justice in Palestine, criminal laws and their compatibility with international standards. **The second part** addressed guarantees of women's access to justice in accordance with international human rights law, reviewing the definition of forms of violence against women and guidelines for removing obstacles to women's access to justice. **The third part**, addressed the forms of violence against women that are often

subject to discrimination in the Palestinian criminal justice system, reviewing the definition of sexual, physical and moral violence, and reviewed a number of cases that constitute an indication of the difficulty of obtaining justice for women victims in the Palestinian justice system.

The report also reviewed the **analytical results** that were reached, reaching through the specific, **detailed recommendations** addressed to the relevant authorities. The report also included, at the end, an appendix of the cases that were reviewed and revised.

Finally, the cases were analyzed by reviewing the procedures and court decisions in accordance with the principles of the Palestinian Basic Law and International Human Rights Law, specifically the CEDAW Agreement and Recommendation No. 33 regarding women's access to the judiciary.

Obstacles:

The Covid-19 pandemic in the Palestinian territories and across the world resulted in the imposition of the state of emergency, social distancing measures and suspension of court sessions. Accordingly, the monitoring team requested the Higher Judicial Council to provide them with records of various cases as follows: Cases of severe and simple abuse, cases of indecent assault, rape, kidnapping, threats, extortion, murder and attempted murder.

Indeed, the team was provided with (22) files in various cases. These files contained indictments issued by the Public Prosecution, hearing records and final judicial decisions in the first litigation level. Nonetheless, we did not obtain murder cases or extortion cases. As for the most prominent obstacles in analyzing these cases, they were in the selection of the Higher Judicial Council for those cases, determining their number and division, as well as the failure to obtain all the information required from the cases, for example, forensic reports, full seizures, case progress and judgments in the appeal and cassation.



Executive summary

The report examines how the justice system in Palestine responds to issues that involve violence against women, using the international obligations of the State of Palestine and national laws as a frame of reference. We did so, while being aware of the efforts made to amend some provisions of the Penal Code, preparing a draft law on “Family Protection against violence” and seeking to adopt a legal and political framework, through which it can be possible to address gender-based violence. However, commitment to CEDAW, making legal amendments, adopting policies, is one thing, whereas, practical application and effectiveness in dealing with acts of violence against women is another thing altogether. The report found that the judicial response to cases of violence against women is noticeably incomplete and barely matches the severity and incidence of the problem.

The report found two levels of obstacles in criminal laws that hinder an effective investigation of cases of violence against women. The first concerns gaps and deficiencies in the laws, and the existence of discriminatory concepts that render women at a disadvantage. The second type of impediment is the failure of the judicial authorities to properly enforce or apply the legal rules in the penal code.

With regard to loopholes in the law, the report found that the criminal laws applied in Palestine do not yet provide for the various manifestations of violence against women - physical, psychological and sexual - as defined in CEDAW, nor do they provide for contexts in which forms of violence occur outside the family (social, urban, institutional, and job-related). Laws focus mainly on the concept of harm in its traditional form, excluding other contexts in which violence against women occur. This leaves women without protection against other manifestations of violence that go beyond the scope of legal texts.

The chain of justice starts with:

1. The occurrence of the offense “perpetrator and victim”.
2. Knowledge of and / or contacting the competent judicial authority - the Family and Juvenile Protection Unit in the Palestinian Police or the Public Prosecution - and the criminal case is initiated by the Public Prosecution Office, as it is legally entrusted with instituting the criminal case.

3. Referring the criminal case to the court and follow-up by the public prosecution.
4. The issuance of the criminal judgment - of acquittal or conviction against the accused.
5. Follow up on the appeal ruling if it is subject to appeal, or follow it up on the civil aspect by claiming compensation for the victims.

Part One

The legal framework for women's access to justice in Palestine

Part One

The legal framework for women's access to justice in Palestine

Legal systems and rules vary in Palestine because of the fact that Palestine has fallen under the mandate and occupation of different countries since the beginning of the last century, each of which contributed to setting its legislative policy and legal vision, which led to the diversity of the legal rules applied in the Palestinian territory. In Palestine, Civil Law is represented by “The Journal of Judicial Provisions” Since the Ottoman era, which serves as civil law. Then we have the “Civil Violations Law”, which dates back to the British Mandate era, followed by the Jordanian era as Penal Law No. 16 of 1960 in effect in the West Bank, and we have the modern Palestinian legislations such as the Criminal Procedures Law.

First: Palestine obtaining the status of observer member in the UN

Upgrading the Palestinian representation to the status of an “observer state” has opened the way for Palestine to seek membership in the UN specialized agencies, international organizations, programs and funds, in addition to Palestine’s accession to most international treaties, including the four Geneva Conventions and the Rome Statute of the ICC.

With regard to the core UN human rights treaties, upgrading the Palestinian representation has opened new opportunities for accession to these treaties. This, especially that the amended Palestinian Basic Law of 2003, stipulated in Article (10) paragraph 2, in the section on rights and freedoms, “the Palestinian National Authority shall act without delay to join regional and international declarations and covenants that protect human rights.”

Palestine announced its commitment and ratification of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 2014 without reservations, but did not publish it in the Official Gazette to make it binding under the Palestinian Basic Law.

The Convention on the Elimination of All Forms of Discrimination Against Women, in its second article, calls on states parties to “take all appropriate measures, including legislation, to amend or abolish existing laws, regulations, customs and practices that constitute discrimination against women.”

In 2017, the Palestinian High Constitutional Court decided in the constitutional appeal no. 4/2017 that the international agreements ratified by the State of Palestine supersede internal legislation. The Constitutional Court’s decision stated, “International jurisprudence and judiciary is settled that international conventions, in essence, express the will of states, in expressing their sovereignty in signing, ratifying and acceding international agreements. The state’s expression of this sovereignty means that it has implicitly accepted to relinquish part of its sovereignty in favor of the rule of international law, by expressing a common will among the states, ratifying these agreements, in terms of enshrining the right of the international community in the formation of an international law system. In this system, international convention and customary rules become part of national law as a result. “It has become unpalatable that states’ adherence to their sovereignty become an obstacle to respecting their international legal obligations stemming from the United Nations Charter and human rights charters that carry with them some rights, which have become peremptory norms.” The Constitutional Court concluded that international agreements supersede domestic legislation. The rules of these agreements will gain more force than internal legislation, in line with the national, religious and cultural identity of the Palestinian Arab people.

However, the Constitutional Court backed up and contradicted itself, almost reversing its previous decision. On 3/12/2018, the High Palestinian Constitutional Court issued a ruling, regarding the enforcement of international agreements in Palestine, where the Declaration of Independence document is integral part of the constitutional system in Palestine; rather it is the highest of them, followed by the Palestinian Basic Law. Since the High Constitutional Court in Palestine has declared the supremacy of international treaties and agreements over ordinary national legislation (laws and decree laws), international treaties and agreements come in a lower rank than the Basic Law.

Likewise, this decision of the Palestinian High Constitutional Court stipulated that: “The treaty or the agreement is not considered a law to be applied in Palestine. Rather, it must gain power through its passing through the formal legislative stages that must be available to issue a specific internal law to enforce it.”

Second: The amended Palestinian Basic Law “2003”:

Article (5) of the amended Palestinian Basic Law of 2003 states that the system of government in Palestine is a democratic system, which must be based on respect for public freedoms, personal freedom and human rights in general. Chapter Two of the amended Palestinian Basic Law has been devoted to these rights, recognizing them and pledging to join immediately to the international and regional declarations and covenants that protect human rights. It explicitly stipulate respect for freedom of opinion and belief, equality in rights and responsibilities before the law, as in (Article

9) and personal freedom, as in (Article 11). They also stipulate on prohibiting arrest of anyone, except in accordance with the provisions of the law, as in (Article 12). They also state on the prohibition of coercion and torture, as in (Article 13), and affirmed the freedom of opinion, as in (Article 19). These articles also stressed the freedom of residence and movement, as in (Article 20), the inviolability of the home and private life, as in (Article 17), the right to work and housing and the right to political participation, as in (Article 26) and freedom of the media, as in (Article 27).

The Basic Law is the supreme law in Palestine, where any text that conflicts with it is null. Article (9) includes a strong guarantee of equality, stating, “Palestinians are equal before the law without discrimination based on gender.” Therefore, these equality provisions must support many basic rights, and to ensure that the apparent contradiction between that equality in the Basic Law, discriminatory provisions in the Personal Status Law of 1976 and the Jordanian Penal Code is removed, and this is what we will review later.

Third: The Penal Code:

The Jordanian Penal Code of 1960 applies in the Palestinian territory, “the West Bank,” and the vast majority of its provisions guarantee the safety of both men and women. It also deals with some issues related to women, such as a number of articles dealing with a woman’s right to privacy, and penalties for seducing women with promising them with marriage, and the provisions on indecent assault that significantly provide basic protection for women and men alike, in addition to provisions for rape crimes that fall exclusively against women.

It is imperative that the penal code, when criminalizing human behavior, take into account the minimum balance between public freedoms and basic rights recognized in the Palestinian Basic Law and international agreements, and between the rights to criminalize abuse and ensure punishment for the perpetrator. This way preserves the individual’s freedom and natural rights, such as freedom of belief and expression, freedom of the media, plurality of opinions, and the exercise of political rights, and on the other hand, acts that affect the security of society, the individual’s physical and moral integrity, freedom, life, property, and what affects honor and reputation. Keeping in mind that punishing the above is in a way that is, far from authoritarianism, tyranny and suppression of freedoms.¹

Fourth: The Personal Status Law:

The “Sharia” Personal Status Law of 1976 in force in the West Bank constitutes the basis for family law in general. It regulates all matters of marriage and consequent issues thereto, as well as divorce its provisions and its effects, custody, inheritance and other issues that concern the family.

1- Attorney Gandhi Rabai, the policy of incrimination and punishment in Palestine / human rights review in the Jordanian Penal Code No. 16 of 1960 and the draft Palestinian Penal Code / Publications of the Independent Commission for Human Rights.

This law, established within families unequal gender power relations and gave males in the family a higher status than that accorded to females. This imposes the subordination of females to males and their subjection throughout their lives to male control over women and their right to work, travel and movement.

The Jordanian Personal Status Law of (1976) in force in the West Bank and the Family Rights Law promulgated with Order No. (303) of (1954) in force in Gaza considered that man is the person in charge of marriage, and he is the breadwinner, guardian and custodian². In this law, man is responsible for spending on his wife, consequently, his wife must obey him and his right to change her place of residence and prevent her from working³. The law granted him the right to dissolve the marital bond without restrictions or conditions,⁴ while stipulating certain procedures, for women, to justify their desire to dissolve the marital bond, which is represented in the approval of the Sharia judiciary on her desire to dissolve the marital bond, such as separation due to absence, conflict and discord, or the husband's imprisonment.⁵

The United Nations Convention on the Rights of the Child, which Palestine acceded in 2014 without reservations, also obligates State of Palestine to register children as soon as they are born, and to guarantee their right to name from birth, without discrimination of any kind, including the child gender, legal guardian or parents, or other social conditions, including marital status. The Convention on the Rights of the Child also calls on state parties to ensure the best interests of the child in all procedures relating to children.

Despite the foregoing, we find that the Personal Status Law applied in the West Bank includes articles that contradict the Convention on the Elimination of All Forms of Discrimination against Women, and these articles relate to marriage age, guardianship, polygamy, divorce, and custody.

2- Article No. (2) of the Personal Status Law No. (16) of 1976 states: "Marriage is a contract between a man and a woman, legally permissible for him, to form a family and find offspring between them." Article No. (9) of the Personal Status Law No. (16) of 1976: "The guardianship in marriage is for the league himself in the order stipulated in the most correct saying of the Abu Hanifa school of thought," and Article No. (11) of the Family Rights Law of 1954 which states: "The guardianship in marriage is for the league himself, respectively, and if it is not it is transferred to the judge. «

3- Article No. (35) of the same law which states: "If the contract is signed correctly, the husband shall be bound for the entitlement of wife for dowry and maintenance, and the right of inheritance is established between them." Article No. (37) of the law which states: "After receiving her immediate dowry, the wife must obey and reside in her husband's legal residence and move with him to any place the husband wants, even outside the Kingdom, provided that it is safe for her and that there is no condition in the contract document that requires otherwise. If she refuses to obey, she shall lose her right to alimony. Article No. 68 of the law states: "There is no alimony for a wife who works outside the home without the husband's consent." Article No. (40) of the Family Rights Law 1954 in force in Gaza states: "After receiving the immediate dowry, the wife is obliged to reside in her husband's home, which is a legal residence, and to travel with him if he wants to travel to another town if there is nothing to prevent that. The husband must treat his wife well and the woman must obey her husband in permissible matters.

4- In an important development, the High Council of the Sharia Judiciary has implemented the judicial divorce law since 9/1/2012.

5- Article No. (85) states: "The husband has his wife three divorces in three sessions," and Article No. (67) of the Family Rights Law 1954 states: "The husband is eligible for divorce if he is responsible." As well as Article No. (68) Of the same law that states: "The subject of divorce is the woman who is married in a valid marriage or in the waiting period, and the wife whose marriage is annulled does not qualify," as well as Article 72 of the same law which states: "The husband has three divorces over his wife."

Fifth: Court procedures according to the Criminal Procedures Law:

The Criminal Procedures Law is the tool used by the Penal Code to implement and enforce its provisions. After the Penal Code defined the descriptions of what a crime is, and that these descriptions define what qualifies for a crime. The Criminal Procedures Law came as a basic complementary element to outline the steps that must be taken in order to activate the provisions of the Penal Code, in terms of (seizing the crime and seizing its tools, procedures for instituting criminal proceedings, arresting the perpetrator, trial and execution).

The rules of the Criminal Procedure Law are formal (procedural) rules that the public authority must follow in terms of determining the procedures related to controlling and investigating the crime, arresting and trying the perpetrators, implementing the punishment issued against a perpetrator, and defining the competent authorities for that.

However, there is a type of crime that the Penal Code and the Criminal Procedure Law stipulate that it is not permissible to invoke them except based on the victim's complaint. Moreover, this complaint is not accepted after three months have passed from the occurrence of the criminal act or if the victim becomes aware of the crime and its perpetrator. It's worth noting that these crimes no longer exist as soon as the victim drops her right to criminal case, and an example of these crimes is the crime of simple harm that occurs to woman; this crime is forfeited as soon as the woman waives her personal right⁶.

Sixth: Criminal laws and their compatibility with the Convention on the Elimination of All Forms of Discrimination Against Women "CEDAW":

Penal laws contain many texts and articles that violate the principle of equality and are considered discriminatory against women. The law includes various penalties for the same crime that discriminate between women and men. Article No. (282) stipulates, "A woman who commits adultery with her consent shall be punished from six months to two years imprisonment." While the second paragraph of the same article stipulates, "The partner of the adulterer, if he is married, shall be punished with the same penalty of imprisonment for a period of three months to one year." Including two different punishments for the same offense based on gender, and imposing a stricter penalty on women than for men is inconsistent with Article No. (1), which considers discrimination against women as "any discrimination, exclusion or restriction on the basis of gender and its effects or purposes undermine or frustrate the recognition of women's human rights and fundamental freedoms in

6- Attorney Gandhi Rabai, the policy of incrimination and punishment in Palestine / human rights review in the Jordanian Penal Code No. 16 of 1960 and the draft Palestinian Penal Code / Publications of the Independent Commission for Human Rights, p. 6.

the political, economic, social, cultural and civil fields, or in any other field, or undermining their enjoyment of these rights or their exercise of them. This, regardless of their marital status and based on equality between them and men”.

In addition to its violation of Article No. (2) Paragraph (A), which calls for the incorporation of the principle of equality between men and women in their national constitutions or other appropriate legislation, if this principle has not yet been incorporated into them. This, in addition to ensuring the practical realization of this principle through legislation and other appropriate means. Paragraph (b) calls for appropriate measures, legislative and non-legislative, including appropriate sanctions, to prohibit all discrimination against women, while Paragraph (f) of the convention that calls on states ratifying the convention to take all the appropriate measures, including legislative ones, to change or abolish existing laws, regulations, customs and practices that constitute discrimination against women.

Likewise, the Penal Code for the year 60 included in Article No. (302) related to kidnapping by fraud or coercion, imposes a prison sentence of two to three years if the abducted was a male and under fifteen years of age. It also imposes the penalty of temporary hard labor if the abducted was a female and with hard labor for a period not less than five years if the abducted was a married woman, whether she was fifteen years of age or not. It also punishes with hard labor for a period not less than ten years if the abducted was a male or female who was assaulted by rape or indecent assault. It also punishes with hard labor for a period not less than ten years if the abducted woman was married and was not at the age of fifteen years and was assaulted by sexual intercourse. It also punishes with hard labor for a period not less than seven years. This punishment is discriminatory based on gender, as it differs if the abducted is a female or a married female, and it differs between her and the male, and differs between male and female at the same time.

The text of this article contradicts the convention’s definition of discrimination, as contained in the Convention on the Elimination of All Forms of Discrimination Against Women, especially that Article No. (1) defines discrimination as any differentiation, exclusion or restriction that takes place on the basis of gender, and one of its effects or purposes is weakening or frustrating recognition of women’s human rights and fundamental freedoms. This applies to the political, economic, social, cultural, and civil fields or in any other field, or impair or frustrate women’s enjoyment of these rights or their exercise of them, regardless of their marital status and based on equality between them and men. The content of Article No. (2) of the Convention urged for (a) the incorporation of the principle of equality between men and women in their national constitutions or other appropriate legislation, if this principle has not yet been incorporated. This, to ensure the practical realization of this principle through legislation and other appropriate means (b) to take appropriate measures legislative and non-legislative, including appropriate sanctions, to prohibit all discrimination against women (c) To impose legal protection of women’s rights on an equal basis with men, and to ensure effective protection of women, through courts of competent and appropriate jurisdiction. (D) To refrain from engaging in any discriminatory act or practice against women. This in addition to ensuring that public authorities and institutions act in accordance with this obligation.

(E) To take all appropriate measures to eliminate discrimination against women on the part of any person, organization or institution. (f) To take all appropriate measures, including legislative ones, to change or nullify existing laws, regulations, customs and practices that constitute discrimination against women. Finally, (J) Repeal national penal provisions that constitute discrimination against women.

Likewise, the penal code applied in Palestine does not consider a husband's intentional sexual intercourse with his wife, without her consent and coercion, as a crime of rape, in a manner that contradicts the right to personal and bodily freedom for a woman even before her husband. According to the Jordanian Penal Code No. 16 of 1960, which is in effect in the West Bank, Article 292, paragraph 1, stipulates that: "if a female (other than his wife) is coerced, he shall be punished with temporary hard labor for at least five years."

It is noted through the legal analysis of the crime of abused in Articles (333 and 334) of the Penal Code No. 16 of 1960 that it deals with the issues of beating in general, and is devoid of any special legal text regarding wife beating. Consequently, local laws and their texts do not guarantee any protection for women against domestic violence, as the woman is beaten at home many times, and because of the husband, she may not be able to leave the house to file a complaint or obtain a medical report. Additionally, since the legislator has suspended following up the complaint of the victim, a complaint is a notification in which a person narrates the facts of the crime that caused harm to them. The Public Prosecution may not institute a common right lawsuit except based on this complaint, which is often difficult for a woman to file, and when it is dropped, the common right lawsuit with her is dropped, and her right to a remedy is forfeited.

Amendments to the Penal Code:

On May 15, 2011, the President of the Palestinian National Authority issued a decree law to amend Penal Code No. (16) of 1960 in force in the West Bank and Penal Law No. (74) of 1936 in force in the Gaza Strip⁷. The content of the decision aimed at abolishing the text of Article 340 of the 1960 Penal Code Concerning Legal Excuses for Religion and Leniency for Murder in Cases of Flagrant Revelation. It also aimed to amend Article (18) of the Penal Code of 1936 regarding the admission of an excuse for committing acts that would qualify for a crime without the excuse in cases that fall within the framework of "legitimate defense" by adding the phrase (This does not include murders of women against the background of "Family honor") at the end of the aforementioned text.

In 2014, the Palestinian President issued Decree Law No. (10) Regarding amending Penal Code No. (16) of 1960, specifically Article (98) thereof. The decree law stipulated the following: "The text of Article (98) of the Penal Code No. (16). Of

7 - Based on the issuance of this Law by Decree on the provisions of Article (43) of the Amended Basic Law of 2003 and on the aforementioned penal laws, and on Cabinet Decision No. (07/37/13 / MW / SAF) of 2010 regarding recommendation to the President of the National Authority to suspend Implementing the articles of the law related to crimes against the background of «family honor.»

1960 and its amendments, shall be amended to read as follows: “The perpetrator of the crime who commits the crime under a strong fit of anger, resulting from an unjust and dangerous act, benefits from the mitigated punishment and does not benefit from this mitigating excuse if the act is committed against a female on honor grounds.”

In an important development, the Palestinian President issued Law No. 5 of 2018, which provides for the abolition of Article 308⁸ of the 1960 Penal Code in force in the West Bank. The repealed article of the law allowed rapists to escape prosecution, as convicted rapists were allowed to escape from prison if they married their victims. This amendment was in accordance with the contents of Article No. (16) of the CEDAW Agreement, which stipulates for the woman’s right to choose a husband and not to enter into marriage except with her free and complete consent, and her right to protection and to hold accountable the perpetrators who violate her physical freedom.

The new law also amended Article (99) ,by prohibiting judges from reducing penalties for serious crimes⁹, such as killing women and children, by adding a new paragraph bearing the number (5) as follows: “Felonies against women and children are excluded from the provisions of the previous paragraphs.»

8-Article No. 308 of the Penal Code in force in the West Bank includes “stopping the prosecution and restoring the right to prosecution” by permitting a halt in the prosecution of the perpetrators of honor-related crimes mentioned in Chapter Seven, namely “crimes related to honor; Rape, kidnapping in the event of a valid marriage contract between the perpetrator and the victim, and the linkage of the prosecution’s right to prosecute the perpetrator with the end of the marital relationship for a specified period.

9- Article (99) states: Penalties for crimes when mitigating reasons are available if mitigating reasons are found in a case. The court ruled:

- 1- Instead of ruling for permanent hard labor or temporary hard labor for a period of ten to twenty years.
- 2- Instead of permanent hard labor, with temporary hard labor from five to fifteen years, and instead of life imprisonment with temporary detention for a period of no less than five years.
- 3- It may reduce every other criminal penalty to five years.
- 4- It also has the right, except in case of repetition, to reduce any penalty whose minimum period does not exceed three years to imprisonment for at least one year.

Part Two

Guarantees of women's access to justice in accordance with international human rights law

Part Two

Guarantees of women's access to justice in accordance with international human rights law

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which the State of Palestine must abide by, affirmed that gender-based violence, or “violence directed against women because of being women or that affects women disproportionately,” constitutes a form of discrimination. Article 2, Paragraph (E) of CEDAW obliges states to “take all appropriate measures to eliminate discrimination against women on the part of any person, organization or institution.”

Article 3 of (CEDAW) also obliges states to ensure that women enjoy the same basic freedoms and rights as men, including the right to life, physical and mental health, and to ensure the full development and advancement of women.

Under Article (14/1) of the International Covenant on Civil and Political Rights, Palestine must ensure fair trial requirements for victims of sexual violence who seek judicial accountability.

The CEDAW Committee calls on states parties to “ensure effective access for victims to courts and tribunals to ensure that authorities respond adequately to all cases of gender-based violence against women. This includes the application of criminal law, as necessary, and an automatic prosecution to provide alleged perpetrators trial in a fair, impartial, timely, and prompt manner, and appropriate penalties imposed. “It also called for not to impose court fees and costs on victims / survivors¹⁰.

The CEDAW Committee also urged states to “provide effective reparation to victims/survivors of gender-based violence against women. Reparation should include various measures, such as monetary compensation, provision of legal, social and health services, including sexual, reproductive and mental health services, for full recovery.”, satisfaction and guarantees of non-repetition¹¹.

10- Committee on the Elimination of Discrimination Against Women General Recommendation No. 35 Paragraph 45.

11- Committee on the Elimination of Discrimination Against Women General Recommendation No. 33.

On the issue of women’s access to justice, the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) pointed to some special challenges that impede women’s access to justice, as they include: “The concentration of courts and quasi-judicial bodies in major cities, and their lack of availability in rural and remote areas. The obstacles that prevent women from having access to justice are many. These include the amount of time and money required to access justice, complexity of the procedures, and the physical barriers for women with disabilities. This, in addition to the lack of access to good legal advice on gender issues. This includes legal aid, as well as the deficiencies that are often observed in the quality of justice systems (on, for example, judgments or decisions that are not gender sensitive, due to lack of training, delays, excessive length of procedures, corruption, etc.), all of which prevent women from accessing justice.¹²

The basic elements to enable women to access justice in accordance with Recommendation (33) regarding resorting to justice:

The Committee on the Elimination of Discrimination against Women has identified six interrelated and essential elements that are necessary for access to justice:¹³

- 1. The ability to prosecute justice systems:** It means that women are able to resort to the judiciary without hindrance, and that they have the ability to claim their rights, and enable them to do so, given that these matters are legal rights under the convention.
- 2. Availability of justice:** Through the establishment of courts and quasi-judicial bodies, or other bodies, throughout the State party in both urban, rural and remote areas, as well as its maintenance and financing.
- 3. Access to justice systems:** so that all justice systems, both formal and semi-judicial, are guaranteed and affordable, and that women can actually access them. Justice systems must also be adapted and made appropriate to the needs of women, including those who face multiple forms or complex discrimination.
- 4. The quality of justice systems:** This means that all components of the justice system adhere to international standards of efficiency, effectiveness, independence and impartiality. Additionally, the justice systems and their contexts are compatible, dynamic, participatory and open to taking innovative practical measures, take into account gender differences, and take into account the increasing demand of women for justice.
- 5. Providing remedies for the victims:** The provision of justice systems for women means continuous protection, and remunerations for any harm that may be caused to them.

12- Committee on the Elimination of Discrimination against Women, General Recommendation No. 33, supra note No. 18, para. 13.

13 - Committee on the Elimination of Discrimination against Women, General Recommendation No. 33, supra note No. 18, para. 13.

6. Accountability of justice systems: This includes monitoring these systems in order to ensure that they perform their functions in accordance with principles related to prosecution, availability, accessibility, good quality, and provision of remedies. Accountability of justice systems also means monitoring the actions of justice system professionals and their legal liability in case of law violation.¹⁴

Concerning specifically the issue of access to justice in cases of gender-based violence, the Committee on the Elimination of Discrimination Against Women stressed the need for states to conduct consultations with women's groups and civil society organizations to develop legislation, policies and programs in those areas in order to take appropriate measures to create Supportive environments that encourage women to claim their rights. This, in order to report crimes committed against them, to participate actively in criminal justice processes, and to take measures to prevent reprisals against women seeking refuge in the justice system.¹⁵

States must also ensure the availability, accessibility and affordability of highly qualified human resources, along with adequate technical and financial resources. Providing adequate financial and technical assistance to all components of justice systems, including the provision of specialized judicial, quasi-judicial and administrative bodies, alternative dispute settlement mechanisms, national human rights institutions and ombudsmen offices.¹⁶

The Committee on the Elimination of All Forms of Discrimination Against Women has recommended the abolition of "the evidentiary rules that discriminate against women when they are witnesses, plaintiff or accused, by requiring them to bear a burden heavier than that of the man, in order to prove a certain crime or seek compensation."¹⁷

The United Nations General Assembly called on all countries to adopt appropriate guidelines for the issuance of judgments in cases of crimes of violence against women to ensure that the penalties are commensurate with the seriousness of the crime. Countries have been urged to ensure the issuance of judgments and actions related to gender-based violence:

- Holding criminals accountable for their acts related to violence against women;
- Denouncing violence against women and working to deter it;
- Put an end to violent behavior;
- Promoting the safety of the victim and the community;
- Take into account the impact on victims and their family members;
- Imposing penalties that include passing sentences on perpetrators of violence against women in a manner proportionate to the severity of the crime;

14- Committee on the Elimination of Discrimination against Women, General Recommendation No. 33, Paragraph 14.

15- Committee on the Elimination of Discrimination against Women, General Recommendation No. 33, Paragraph 51 (d).

16- Committee on the Elimination of Discrimination against Women, General Recommendation No. 33, paras. 38-39.

17- Committee on the Elimination of Discrimination against Women, General Recommendation No. 33, footnote No. 569, Paragraph 25 (a) (3).

- Providing compensation for damage caused by violence;
- Strengthening the rehabilitation of perpetrators of crimes;¹⁸

18- Updated formulation of model strategies and practical measures to eliminate violence against women in the field of crime prevention and criminal justice, footnote No. 559, paragraph 17.

Part Three

**Forms of violence against women often subject to discrimination in the Palestinian criminal justice system
“judicial applications”**

Part Three

Forms of violence against women often subject to discrimination in the Palestinian criminal justice system “judicial applications”

This part of the report deals with the forms of violence against women that are often subject to discrimination in the Palestinian criminal justice system. It also reviews the definition of sexual, physical and moral violence, reviews (22) cases that we received from the Higher Judicial Council, which constituted an indication of the difficulty of redressing women victims in the Palestinian justice system.

These cases included:

- Minor and severe abuse cases, which constituted the largest number of cases, 14 cases.
- Defiling cases, 3 cases.
- Rape cases, 3 cases.
- Threat, one issue.
- Attempted murder, one case.

In all cases, the report found leniency in judgments by the judiciary and an easing of those penalties. The report also found that in all cases of abuse, the personal right was dropped and reconciliation with the victim was made.

As for the Public Prosecution, the report reviewed all the indictments, but did not review the investigative file and its highlights, which prevented the report from making assumptions that included the suitability of the charge with the criminal act committed against the victim. Even though the Public Prosecution and after the conviction of the accused in all the files that we reviewed, and their demands, the judiciary imposed a deterrent punishment against the perpetrators, but the judge's conviction to reduce the punishment appeared as a clear pattern in all cases.

We also did not verify whether there are appeals against decisions issued in the first instance by the Public Prosecution, so we cannot fully analyze the follow-up of the Public Prosecution and its effectiveness regarding these cases.

We will divide this part in terms of the offense type as follows:

First: Crimes of sexual violence “rape and indecent assault”:

The crime of rape:

The crime of rape within the family is one of the most heinous crimes of humanity, given the serious harm that women consequently suffer. The pain resulting from the crime of rape is not limited to the material aspects, but also to the moral side because of the frustration and sense of humiliation that the crime causes, which may lead to some rape victims to commit suicide to get rid of their emotional pain. Rape is defined in the Jordanian Penal Code, applied in Palestine, as “the sexual intercourse of a non-wife without her consent, whether by coercion, threat, deception, or trick.” Jurisprudence defines it as “a man’s contact with a woman and has a complete sexual contact without her true consent.” Rape can be defined as full sexual activity involving coercion and violence.

The crime of rape is one of the intentional crimes in which the perpetrator’s intention is to have intercourse with a female who does not allow him and he is aware of her objection, which is evident by the use of violence by the perpetrator. In this case, the will of the perpetrator must be directed towards complete intercourse and not just touching or revealing the genital organs.

According to Article (292) of the Jordanian Penal Code No. 16 of 1960, which is in force in the West Bank, the penalty for rape: temporary hard labor for at least five years for that who has coerced intercourse with a woman (other than his wife), and the penalty is not less than seven years if the offender has not completed fifteen years of age.

Upon our review Case No. 137/2019, which is the subject of attempted rape, which was examined by the Tulkarem First Instance Court. We found that the trials continued for three sessions, which began on 12/19/2019 and ended on 12/1/2020. After the victim dropped her personal right, the judgment was issued against the perpetrator, who is the father of the victim, and the accused was sentenced to temporary hard labor for a period of one year. Articles (284 and 285) of the Criminal Procedures Law suspend execution of punishment against the accused for a period of three years. Although the Public Prosecution office, in the indictment, assigned the accused, the father of the victim, the charge of attempted rape, and mentioned in its indictment the witnesses to that incident, the victim’s mother reconciled with the accused and dropped her personal right, as she responded to the defense lawyer when he asked her.

In light of this, the court proceeded with the approach of preserving the family without considering the victim's suffering. It considered the perpetrator's promise, after repeated actions, a convincing reason for the court to stop the execution of the punishment against him, which constitutes a failure to achieve justice for the victim, as the mother waives her personal right and reconciles with the perpetrator, and the perpetrator promises not to repeat his actions. Consequently, the court reduces the penalty on the one hand, and stops its execution on the other hand.

As for the Public Prosecution, it demanded for the deterrent punishment to be imposed against the accused, but it is not clear if it has appealed or contested the verdict. Likewise, the prosecution did not provide forensic evidence to prove the cruelty of the crime, and it did not seek psychological and / or social experts to clarify the severity of harm inflicted on the victim and her psychological wellbeing. Consequently, this meant that the perpetrator was able to return to the same house with his victim daughter without punishment from anyone despite the ugliness of the act committed against her and his attempt to rape her.

As a result, the report reaches a conclusion that the perpetrator enjoys impunity, as the verdict is disproportionate to the ugliness of the crime on the one hand, and it did not contribute to justice to the victim on the other hand, and on the third hand the judgment did not take into consideration the aggravated circumstances¹⁹. The verdict did not take into consideration that the accused is the victim's father and he is entrusted with her care and protection. Finally, we find that the Public Prosecution, a representative of the social authority and a representative of the public right lawsuit, did not demand for aggravated punishment because the perpetrator is one of the assets of the victim and a trustee for her care and upbringing.

The case: 44/2019, which was examined by the Tulkarem First Instance Court, is an example of the failure of the justice system to deliver justice to the victim, who is a complete victim on the part that she suffers from mental disability, while the person who raped her, in her mental condition, is her brother. We find that the court after six sessions from which the perpetrator was absent, due to the failure to implement the habeas corpus against him and backing on his confession, the court decided to convict him with rape of a female who cannot resist, contrary to Article (293) of the Penal Code 16 of 1960²⁰. Accordingly, the court decided to sentence the accused to temporary hard labor for a period of 3 years. After reconciliation and dropping the personal right and Pursuant to the provisions of Article (99/3) of the Penal Code No. 16 of 1960, the court decided to reduce the period of imprisonment to one year and to deduct the period of detention from the penalty.

In spite of strictness in the punishment rulings that must be inflicted on the perpetrators in the case of assaulting people lacking will and the physically and mentally disabled, we find that the court, and indeed the justice system, has reduced the penalty to its lowest level, and wasted the victim's right to justice. In other words,

19- Article (300) of the Jordanian Penal Code for the year 60 applicable in the West Bank stipulates that the penalties for felonies stipulated in Articles (292, 294, 295, 296, and 298) be made more severe if the accused is one of the persons referred to in Article 295.

20- Article (293) of the Penal Code 16 of 1960 states: "He who had intercourse with a female (other than his wife) who is unable to resist because of physical incapacity, psychological deficiency, or because of the deceitful acts used for that, shall be punished with temporary hard labor based on the reality of.

the ruling did not take into consideration the nature of the crime and did not take into account the obligations of the State of Palestine in international conventions and international human rights law, including the Convention on the Elimination of All Forms of Discrimination Against Women.

Later, we received confirmed information that the abused girl had given birth to a child because of this crime. The child was handed over for the Ministry of Social Development, despite the Public Prosecution's attempt to request the abortion of the child, especially since the victim also suffers from «Down Syndrome», but it did not succeed in that.

The prosecution appealed the ruling based on two points: the first: that there is an incest rape crime, and this in itself constitutes an aggravating circumstance for punishment, and the second: the conflict of interests is evident here, where the mother of the raped girl can waive the personal right of the perpetrator who is her brother²¹

The crime of defilement:

The crime of indecent assault is one of the serious crimes of sexual assaults against women. Jurisprudence defined defilement of honor as “every indecent act committed by a person against another, male or female, directly, and he is inflicted with a disgrace that harms him in his chastity and dignity.”²²

The act of indecent assault differs from rape, as the act constituting the crime of indecent assault does not amount to a complete incident; rather it represents any actions below that, which may affect the integrity and dignity of the assaulted body and its chastity. In contrast to the crime of rape, in which it is not imagined that the aggressor is a female, in the crime of indecent assault, the act may occur against a male or female. If the victim was a female, then we are before one of the forms of sexual assault against women.

The stereotypical ideas in dealing with a woman victim and prejudice against them are evident in the reduction of punishment against the perpetrator into half. In Case: 397/2018, which was considered by the High Criminal Court / Ramallah, in which the accused was tried for the two crimes of indecent assault and kidnapping by fraud or coercion. The accused did not attend nor an agent. Additionally, in light of the investigation file that the Public Prosecution sought as evidence in the case, the verdict was issued acquitting the accused of the crime of fraud and coercion. It convicted him for the crime of indecent assault, a punishment of temporary hard labor for a period of 5 years, which was reduced in half as a result of the reconciliation. This happened despite the accused not attending court sessions -.

In this case postponing consideration of the case happened repeatedly more than once for the same reason. It is noteworthy that the victim was not heard during the court sessions. As a result, after dropping the personal right, the penalty was reduced and the accused was sentenced in absentia.

دعاه لهد كراشد يتلاو "موزلا قبيطه ريد" 30/3/2021 خ يرلته تدقمه يتلا ؤودنلا بي ف ميخلصه نيراد قديسدلا فرسدلا ؤيامح ؤباين ؤسيئر قيلعت نم- 21- ريرقتلا اذه ؤدوسم ؤشقانلا ؤبايدلا اعاضاو فنعلا نم فرسدلا ؤيامح ؤباين ؤسيئرو. قاضفلا ؤناسدلا نم.

22- Nammour, Muhammad Saeed, previous reference, p. 221.

Second: Crimes of physical assaults “harm”:

One of the most prominent and clear forms of violence against women is physical violence, which may manifest itself in several forms that are difficult to enumerate. However, we will deal with the most important one, which is the crime of simple and serious abuse. We mean by abuse is “actions that a person performs on another person that affects the integrity of his body and the normal functions of his organs.”²³ The crime of harm ranges between misdemeanor and felony, depending on the gravity of the act, the nature of the injury, and the risk that was endured because of this injury.

This is per the Jordanian Penal Code No. 16 of 1960 applied in the West Bank. The law included a description of an act of abuse from felony, as stipulated in its Article (333), which dealt with an act of abuse that includes beating or a resulting wound that caused incapacitation from work for a period of more than twenty days.²⁴ Nonetheless, if the act results in an injury in which the period of incapacitation does not exceed twenty days²⁵ or less than ten days²⁶, then the act is a misdemeanor. All of the above-mentioned acts that fall under the act of harm constitute a crime of physical violence against a woman if the victim is a woman.

The problem here is that if the acts of harm did not result in illness or disruption of work for a period of more than ten days. In such a case, it may not be pursued without the aggrieved party’s complaint in writing or orally and in this case, the complainant has the right to withdraw his complaint until the judgment acquires the deterministic degree, and then the Public right lawsuit is dropped. This is precisely what happens to a woman seeking justice, and she subsequently has to drop her complaint or give it up during the trial, which leads to the general right lawsuit being dropped accordingly and the case ends.

Blaming the victim and the stereotypical ideas prevailing in the conduct of abuse complaints procedures by women victims constitute a real obstacle to redressing these women. It made them victims again, which the criminal justice system may cause. They may be particularly exposed to hostile treatment by the family and the surrounding community when they seek justice, especially if the aggressor is primarily a member of the family, which may add to the harm they previously suffered. These concerns are particularly acute among women at risk of multiple or exacerbated discrimination. Often, women belonging to these groups do not inform the

23- Tigers, Mohammed Saeed. Crimes against persons, 1st ed., The International Scientific House for Publishing and Distribution, and the Culture House for Publishing and Distribution: Amman, p. 111.

24- Article 331/1 s penal, stipulate: “If the previous acts did not result in any illness or incapacitation from the act or resulted in illness or disability, but its period did not exceed twenty days, the perpetrator shall be punished with imprisonment for a period not exceeding a year or a fine not exceeding twenty five dinars or both The two penalties.

25- Article 333 of the Jordanian Penal Code stipulates: “Whoever intentionally beats, injures, or harms a person by any effective act of violence and assault that results in illness or obstruction of work for a period of more than twenty days, he / she shall be punished with imprisonment from three months to three years.

Article 331/2 penal, stipulates: “If the acts indicated in the previous article did not result in illness or disruption of work for a period of more than ten days, the case may not be pursued without the aggrieved person’s complaint in writing or orally. In this case the complainant is entitled to waive his complaint until he acquires The judgment is the final degree, and then the common right lawsuit shall be dropped.

26- Article 331/2 stipulates penalties: “If the acts indicated in the previous article do not result in illness or disruption to work for a period of more than ten days, the case may not be pursued without the complaint of the public aggrieved party.

competent authorities or file complaints for fear of being insulted, or stigmatized, subsequent to filing or continuing with complaints.

The Committee on the Elimination of All Forms of Discrimination Against Women had indicated that the Member States should work in order to prevent these forms of abuse and take steps to “promote a culture and environment on the social level, whereby in their context, the woman’s seeking access to justice is viewed as both legitimate and acceptable matter rather than a reason for further discrimination and / or stigmatization.”²⁷

This fear of harm or the subsequent stigmatization of the trial is repeated in all the cases reviewed, as we find waivers of these complaints by women victims, which can only be explained in light of this fear.

In Case 64/2018, which was examined by the Tubas Magistrate’s Court, in which the Public Prosecution indicted with grave abuse 24/1/2018, according to the text of Article 333 of the Penal Code No. 16 of 1960 against the first accused who is the husband of the complainant and his mother who is the second accused. The indictment was on grounds of beating of the complainant, on January 22, 2018, all over her body, which caused her injury.

The trial procedures began on January 24, 2018, with a public session that read the accusation against them, and they pleaded «not guilty.»

The trial procedures were conducted by holding several sessions, while the accused were absent from some of them, and the postponement of these sessions was for the purpose of completing reconciliation between the complainant and the accused at the request of the complainant and one of the accused. Incapacitation was for a week from the date of the injury as stated in a forensic medical report. Consequently, the description of the charge has been changed to become the injury as described Article 334/2 of the Penal Code No. 16 of 1960.²⁸

At the hearing of 10/23/2018, the complainant stated that she had reconciled with the defendants and did not wish to pursue the complaint against them and forfeited her personal right. Accordingly, a decision was issued by the court to drop the public right lawsuit against the accused from the charges against them, following the dropping of the personal right.

The court amended the description of the charge from Article (333) to Article (334/2), which led to a reduction in punishment for the accused, as well as allowing the complainant to reconcile with the accused. It did not take into account the harm that may be caused to her upon returning home accompanied by her accused husband who committed the assault, and that this damage may amount to murder in the coming times.

27- The Committee on the Elimination of Discrimination against Women, General Recommendation No. 33, footnote No. 569, paragraph 10. Paragraphs 8-10 also deal with multiple forms of discrimination and cases in which women find themselves and prevent them from enjoying human rights.

28- Article 334 Paragraph 2 of the Jordanian Penal Code states that: If the acts described in the previous article did not result in illness or disruption to work for a period of more than ten days, the case may not be pursued without the aggrieved person’s complaint in writing or orally, and in this case the complainant has the right to waive his complaint until the judgment acquires the final degree, and then the public right lawsuit shall be dropped.

It is also noted, through the legal analysis of the crime of abuse, in Articles (333 and 334) of the Penal Code No. 16 of 1960 that it dealt with the issue of beating in general, and was devoid of any special legal text regarding wife beating. Consequently, local laws and their texts do not guarantee any protection for women against domestic violence. The woman is beaten inside the house many times, and because of the husband, she may not be able to leave the house to file a complaint or obtain a medical report. Moreover, since the legislator has suspended pursuing the case on the complaint of the victim, a complaint is a notification in which a person narrates the facts of the crime that caused harm to him. The Public Prosecution is not permitted to file a public right lawsuit except based on this complaint, which is often difficult for a woman to file, and when it is dropped, the public right lawsuit is also dropped, and her right to a remedy is forfeited.

In another case of grave abuse that was examined by the Tulkarm Magistrate's Court under the number 1428/2019, where the husband, on July 16, 2019, and in evening hours, the victim hit his wife by hand all over her body, causing serious harm to her, and was transferred as a result to the hospital.

As a result, the trial procedures began openly on 1/8/2019, when the Public Prosecution read the accusation against the accused, and the accused pleaded "guilty, regrets, and confessed to what was stated in the indictment." Then the complainant stated that she reconciled with the accused, dropped her personal right and did not wish to pursue the complaint. She did not obtain a final medical report of her health condition. She was satisfied with the initial medical report. She also stated that she was not incapacitated for any day as a result of abuse.

In the same session, the Public Prosecution attorney presented his evidence and highlighted the investigative file with all its contents. As for the accused, he did not want to present any defense evidence, so that the court in the same session issued a ruling indicting the accused for the accusation assigned to him, which is the charge of serious injury contrary to the provisions of Article (333) of the Penal Code, and the verdict. He should be imprisoned for a period of three months, and with reconciliation, the court decided to replace the prison sentence with a fine of half a Jordanian dinar for each day of imprisonment.

We observe a distinctive pattern of wasting the right of women victims. It is sufficient for the accused to acknowledge his crime and the existence of reconciliation for the punishment for the perpetrators to be reduced. Punishment is reduced to the lowest levels and replaced with a fine, regardless of the victim's pain and suffering and her fear of continuing with the complaint in light of this hostile procedural silence to enable her to access redress, thus remedies are blocked. Remedy paths are blocked, even that the court has amended the charge and did not ask for a final medical report, contenting itself with the initial medical report. The prosecutor also kept silent and did not ask for a final medical report, thus, the result was to amend the charge to become simple abuse, and the woman returns after losing her personal right to the house in which she was beaten. The husband returns to the same house enjoying impunity.

As for the next victim, she is a divorced woman who lives in the house of her family, with her young 4-year son. Her father beat her with a water hose. The complainant

stated in the complaint submitted by her: “Her family treat her in an inappropriate manner and do not respect her as if she were a person without dignity. They cursed her in bad words, and that they did not feed her son not treat him well. She went to the protection center and complained that her father also prevented her from leaving the house most of the time. She went out of the house for two hours. When she returned, her father started beating her on different parts of her body under the pretext that she was out of the house without his knowledge and to an unknown place. “

Although the victim filed a complaint with the Family Protection Unit in Jericho, and then a complaint with the Public Prosecution with the Family Protection Advisor, the abusive father was brought before the prosecution and then the court. However, the complainant did not attend the court sessions and the reasons for her absence were not clear. The court sufficed itself with forcing the “accused” father to sign a pledge not to interfere with the complainant again, without issuing a court ruling against him.

The case of this complainant - as a divorced woman, daughter and mother - is a clear case of the failure of the justice system to do justice to women even when she is demanding her rights and is willing to file a complaint. This woman was subjected to violence and beating by her family at home. This means that her family members were present at the assault incident, and the complainant mentioned this in her testimony to the prosecution, despite that, none of the witnesses were summoned to hear their testimonies, as if we are facing a procedural environment that prevents the victim from accessing justice. This system did not pay attention to the victim’s suffering, and her daily exposure to humiliation with her and her son, just because she is divorced and has no place to live other than the home of her family.

As for the accused (the father of the victim), despite the clarity of the assault that he committed, no punishment was imposed against him, and the court was satisfied with his pledge not to repeat this.

As a result, women, survivors of domestic violence, are unable to change their situation, not only because of their financial dependence on the perpetrators, but also because of social barriers, including pressure on them to preserve the family at all costs, and to avoid the stigma attached to the family if the woman leaves the house or complains of abuse. These barriers are compounded by the authorities’ failure to prevent domestic violence, protect survivors and establish a comprehensive system to prosecute perpetrators.

These patterns are repeated in all the “thirteen cases” reviewed. The victim waives her right, and drops her complaint, so that the perpetrator escapes from punishment or the punishment is reduced to a minimum, and a fine replaces the punishment.

There are significant gaps in the Jordanian law applied in the Palestinian territories with regard to responding to domestic violence. Until the drafting of this report, domestic violence is not considered a stand-alone crime. Rather, it is pursued as physical violence under general criminal provisions relating to assault, and is considered according to the severity of the injury. When the injuries heal in less than 20 days, which is often the case, the public prosecutor’s office consider it a misdemeanor.

Penal Code No. 16 of 1960, applied in the West Bank, allows the aggressor to evade punishment or obtain a lenient sentence if the victim forgives. This increases the victim's vulnerability to social pressure to forgive, and may deter her from seeking redress in court.

The law and the judges who rule accordingly depend on assessing the severity of physical disability to determine the degree of punishment, without giving instructions to forensic doctors on how to determine disability in domestic violence cases. Additionally, the law ignores the possibility that the harm caused by domestic violence is caused by repeated beatings that cannot be assessed via a single diagnosis. It does not take into account psychological violence resulting from abuse or assault, and it is insensitive to gender issues in terms of the victim's circumstances and the unequal balance of power within the family.

Finally, after reviewing the issues of minor and severe abuse, the report found two very important observations, namely:

1. In all cases, we have seen a general trend to reduce punishment by judges against the perpetrators.
2. In all cases of minor and severe abuse, the personal right of women victims of violence has been dropped.

Third - Verbal Violence Crimes against Women “The Threat”

Threatening is considered a form of verbal violence and has been criminalized by the Jordanian Penal Code in Articles (349), which states: 1 - Whoever threatens another by pointing weapons against him, shall be punished with imprisonment for a period not exceeding six months. 2- If the weapon is a firearm and the perpetrator uses it, the penalty is imprisonment from two months to a year. Article (350) which provides for the threatening with committing a felony in commission or omission “Whoever threatens another with a felony punishable by death or permanent or temporary fifteen years in hard labor, either by closed writing or through a third person, he shall be punished by imprisonment from six months to three years. The threat includes performing or abstaining an act, even if it is legitimate. “

However, what concerns us in the context of this report is what is stated in Article (351) penalties, which states, “If the threat with one of the aforementioned felonies did not include something or included something, and was done verbally without the intervention of another person, shall be sentenced to imprisonment for a period of one month to two years.”

Here, we see the applicability of this text to the threatening situation, which is part of verbal violence against women, because the above text does not require publicity, defamation, gathering, writing, or other means. Rather, the legislator sufficed, considering that pronouncing the threat is something that causes the crime. This is what is often imagined in the threat against women, especially in the context of a family relationship (wife, sister, daughter, or otherwise), where in this case the act of threat is not envisaged except in a private and secret manner, which makes the text of the above article the appropriate punitive text for that. Additionally, since the law did not specify a description of the aggressor in this article, we consider that it is permissible to apply even between spouses as well as relatives.

In contrast, the Jordanian Penal Code did not criminalize the rest of the forms of moral violence against women. These include forced marriage, neglect, or even verbal violence that is represented by insult, verbal abuse and others as long as the conditions for the crimes of defamation, slander and contempt are not met, which is unimaginable to achieve, especially in the context of the marital relationship and family.

The pattern of dropping the personal right by the victim is repeated even in the crime of threatening by pointing weapons. In Case No. 1480/2019 which was considered by the Qalqilya Magistrate's Court, where the Public Prosecution indicted the accused with threatening with pointing a weapon, in violation of Article 349/1 of the Penal Code No. 16 of 1960, contrary to Article 334 of Penal Code No. 16 of 1960.

The brother of the complainant's husband assaulted her, carried a long stick, and tried to assault her again, before the accused's wife intervened and caught him.

In one session, which took place on October 2, 2019, the charges against him were read to the accused, and the accused pleaded guilty. The complainant also stated, "I have reconciled with the accused and forfeited my personal rights from him, and I have waived this complaint, and I do not wish to pursue it." The ruling was issued in one session, and the court ruled "to imprison the accused for a period of one month, and after dropping the personal right, the imprisonment should be converted to a fine of half a dinar instead of every day of imprisonment."

Fourth: Assault Crimes and Threatening a Woman's Right to Life "Attempt to Murder":

The attempt to murder is interpreted in the law as commencing the execution of an act with the intention of committing a crime, but the perpetrator was unable to complete it for reasons that have nothing to do with his will. He is not considered as embarking on the crime for considering to initiate the crime or merely thinking about it or resolving to do it or threatening or preparing for it before starting the execution, until the initiation of the crime of murder. The perpetrator should: Start carrying out the act constituting the crime and that he intends to commit the crime, that is, causing death, as well as that death should not be realized.

Looking at Case No. 295/2018, which was examined by the High Criminal Court, we find a reduction in the penalty for the perpetrator who committed the attempted murder against his wife, and sentenced him to only four years. The prosecution indicted the perpetrator with the charge of attempted murder in accordance with the provisions of Article (326) of the Jordanian Penal Code, which is intentional homicide. In this charge, the punishment reaches a maximum of fifteen years, and then to Article (70) of the Jordanian Penal Code. The aforementioned code states: “Penalties upon completion of the actions necessary for the crime and not to commit it if the actions necessary to complete the crime were carried out, but due to preventive reasons that have nothing with the perpetrator’s will, the crime did not take place, he shall be punished with the following:

1. Permanent or temporary hard labor from ten years to twenty years if the felony punishment commenced entails death, and seven to twenty years of the same penalty if the penalty is hard labor for life or life imprisonment.
2. To deduct from any other penalty one-third to half.
3. The penalties mentioned in this article are reduced to two thirds if the perpetrator modifies with his own free will without completing the crime he intended. “This is what the judge relied upon while taking a reduced penalty for the accused to retract from completing his crime, although the Public Prosecution has requested that a deterrent punishment be inflicted against him, by attributing that to the indictment decision. As for the conviction, it is not clear that the prosecution will appeal this judgment for being lenient or not”.

The facts of the case can be summarized as follows, on 07/18/2016, the defendant attacked the complainant (his wife) with a knife he brought from the kitchen in the house of the complainant’s mother, in which the accused and the complainant were present at for about ten days. The defendant went to the room, where he used to sleep and attacked the complainant with a knife in her face, stomach and back several times, until the knife bent. Despite her attempt to defend herself and keep the accused away from her, he continued to stab her in the right arm two times, and then fled the house.



Qualitative and analytical results:

There are no comprehensive statistics showing the number of prosecutions for violence against women and the number of convictions. Consequently, it remains difficult to assess the extent to which the State of Palestine complies with its obligations to investigate and punish domestic violence crimes and obtain conclusions.

Nevertheless, the research team reviewed the case files they obtained from the Higher Judicial Council, and through reviewing these cases, the research team reached the following results:

The first finding: Social and economic obstacles still prevent women victims of domestic violence from seeking help, protection and justice, in addition to the pressure exerted on them to keep the family at all costs, the economic dependence on husbands and stigmatization and shame. The aforementioned points to a social environment that contributes to tolerance for the perpetrators and silence the victims of domestic violence.

The second finding: The Jordanian Penal Code No. 16 of 1960 applicable in the West Bank links the severity of the punishment with the severity of the victim's injury, which the doctor determines by submitting the medical report. Most cases of abuse were prosecuted under the provisions of the penal code, which link punishment to the level of incapacitation and disability caused with physical injury. The law grants a major, albeit indirect, role for forensic doctors in determining sentences, by virtue of the medical reports they write and determining the number of days of incapacity. However, the applicable law in Palestine does not mention the criteria and elements that forensic doctors use to determine the period of incapacity. This lack of guidance gives physicians wide discretion and potentially arbitrary influence over sentencing in criminal cases. This approach also ignores the fact that domestic violence often results in smaller but cumulative physical injuries, lasting less than 10 days of disruption, or other abnormal or less obvious damage, such as psychological trauma.

The third finding: Courts are still prosecuting acts of domestic violence under general provisions related to abuse in the Penal Code, although the law criminalizes various forms of abuse, yet the laws in Palestine do not include a comprehensive definition of domestic violence that includes physical, sexual, psychological and economic violence.

The fourth finding: The two laws applied in Palestine lack preventive measures for survivors who seek protection and justice. In the absence of these measures, traditional attitudes that regard women as subordinate to men or have a stereotypical role that perpetuate common practices that involve violence and coercion continue to exist.

The fifth finding: Although the Jordanian Penal Code No. 16 of 1960, applied in the West Bank, stipulates penalties for some forms of abuse, it also allows the criminal to escape punishment or benefit from a reduced sentence if the victim pardoned the perpetrator. In cases of simple harm that do not lead to long or permanent incapacitation, the pardon of the victim ends the complaint, and the punishment is reduced to a minimum if the incapacitation resulting from the harm is permanent or prolonged. Through amnesty possibilities for such criminal rulings, the law encourages victims to pardon the perpetrators, and the aggressors know that there is an escape out of it.

The sixth finding: Women already face social pressure to drop complaints against those who mistreat them, and while they have the possibility of new charges under this law, they face social pressure from their abusers and their families to pardon them throughout the legal process and even upon conviction. The law does not provide for the use of “protection orders” that can prevent perpetrators from contacting the victim and other related measures, leaving survivors at risk of further threats of violence or other harm if the perpetrators are not exempted. By prioritizing the “continuity of marriage life” guaranteed by this amnesty, the law places a woman’s safety and even her life at risk. If most women are pressured to pardon the perpetrators, this may render the law ineffective in preventing violence against women, or achieve access to justice.

The seventh finding: In most cases, Public Prosecution Office does not inform assaulted women of their rights. It is evident that women lack legal awareness of their guaranteed rights in the cases reviewed. This is evident through their attempts to reconcile and drop the personal right, which leads to the perpetuation of the suffering of the abused women under the influence of physical and psychological violence for a long time in the absence of effective psychological treatment programs or social counseling.

The eighth finding: the absence of special and unified procedures regarding dealing with battered and assaulted women in court sessions. Judges, themselves, deal with women in a different manner through different judgments; it depends on the judge’s personality, experience, and personal perceptions of the matter, which is clearly reflected in the difference in judgments on one side, while on the other, the punishment is not proportionate to the crime committed against the victim in many cases.

The ninth finding: Considering violence as simple acts and giving them simple legal interpretation may increase the incidence of violence against women, taking into account the community pressure on the victim from all the surrounding parties, which makes her seek reconciliation and waive her personal right to prosecute the perpetrators, who are often her husband or relatives.



Recommendations

First: Accelerate the issuance of the Law on Protection of Families from Violence, so that the law takes into account:

1. Adding an expanded definition of domestic violence that includes physical, sexual, psychological and economic violence.
2. Adding the types of evidence admissible in court proceedings, such as medical and forensic evidence; Victims' testimonies; Photography; Expert testimonials; Physical evidence such as torn clothes and damaged belongings; Cell phone records; and emergency and other calls. The law should also provide that the victim's testimony is sufficient for a conviction.
3. While the severity of the injury - as determined by doctors - must be considered one of the factors that the court can rely on to determine the punishment of the convicts, there are other factors that can be adopted in the Law on Protection of Family from Violence. These include precedents related to violations, the possibility of recidivism, the need for rehabilitation, and other factors.

Second: To the Ministry of Women's Affairs

1. Collecting statistical data with regular intervals to determine the causes and frequency of all types of violence against women.
2. Organizing statistical data according to gender, age, race and other relevant characteristics.

Third: The report's findings confirm the urgent need for the government and non-governmental organizations to enhance women's understanding of their basic rights. Therefore, the report urges the Ministry of Women's Affairs and the programs of local and international institutions to coordinate among themselves to develop and implement awareness programs that specifically include the following:

1. Educating women about their basic rights granted by Palestinian laws and international conventions, specifically the CEDAW agreement that Palestine has ratified.

2. Launching awareness programs for women's rights and justice through various media, radio, television, and social networking sites.
3. Raising awareness about domestic violence in school curricula.
4. Working to reduce the culture of shame and discrimination as a basic guarantee in making justice systems more considerate of women, because women cannot afford to struggle to obtain their rights through legal amendments and then lose these rights through procedures and applications.

Fourth - work at the legal level through:

1. Publication of the Convention on the Elimination of All Forms of Discrimination Against Women in the Official Gazette.
2. Harmonizing Palestinian legislation and laws with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and canceling or amending all texts that contradict the principle of equality contained in the Basic Law.
3. An amendment to the Penal Code by canceling the explicit references to texts that allow the end of the prosecution, or the abolition or reduction of the penalty stipulated by the court in case the victim forgives the aggressor. Likewise, amending the discriminatory articles against women and girls in the Penal Code.
4. Amend the gap between the minimum and the maximum punishment limit for crimes of violence against women to limit the expansion in relying on the judge's discretion.
5. Work to amend the Criminal Procedures Law to allow continued prosecution of crimes of abuse against women without the need for a complaint in all cases.

Other recommendation:

1. Support and strengthen women victims before, during and after the trial, and providing guarantees for that through an integrated support system and a budget allocated for it under the supervision of Social Affairs.
2. Ensure complementarity in work between the parties of justice to present a complete file of the victim and submit that to this complementarity of justice.
3. Ensure that the judiciary rule in the spirit of the obligations of the State of Palestine in international covenants and the CEDAW agreement and the principle of equality in the Palestinian Basic Law and not only the old and static texts of the penal laws.



Conclusion

Fear of reprisals or community isolation has a devastating effect on a woman's right to seek justice. Women sometimes face community rejection in their pursuit of justice, especially in issues of family violence. This societal rejection resulting from the prevailing culture may extend to influence the justice system and thus affect redress for women victims of violence in various forms. In the event that a woman decides to pursue a case, she may suffer pressure from her family members to withdraw the complaint, and in similar cases, there are no clear procedures to ensure the victim's free consent to waive her personal right and leave the complaint submitted by her.

The report concluded that strategies for developing the justice system should be within a comprehensive and interdependent approach that guarantees equality of all citizens before the law, not only in legislation but also in reality. Ensuring access to justice presupposes the adoption of a holistic approach that is not limited to ensuring access to courts, providing legal advice services and legal representation. Rather, "seeking justice for women" should be defined by ensuring fairness of the results of legal and judicial procedures for their fairness.

This report, which is based on 23 cases of physical, sexual and emotional violence against women and girls, comes after the adoption of amendments in the Penal Code. This report concludes that although amendments to the Penal Code have made progress in responding to the widespread challenges faced by women victims, however, State of Palestine and its justice system have not developed and implemented adequate support for access to justice for these victims.

Access to justice for women is the basis for gender equality and women's empowerment. The process of facilitating women's access to justice in Palestine must be comprehensive, as the obstacles that prevent this can range from civil inequalities to institutional weaknesses, and the inability of the justice system to accommodate Legislative developments. This also includes the obligations of the State of Palestine under international treaties and covenants that it has ratified, including the Convention on the Elimination of All Forms of Discrimination Against Women. Likewise, social, economic, cultural and political issues must be addressed along with the development of the justice system to achieve equality and fairness for women victims of violence.

On 3/30/2021 a symposium was held, in which a number of judges, head of the Family Protection from Violence at the Prosecution Office and members of the Pub-

lic Prosecution Office participated to discuss a draft of this report. The judges expressed their observations and suggestions, which indicated the need to integrate the efforts of the parties of justice to empower women victims from her access to justice.

On the other hand, the Head of the Family Protection from Violence at the Prosecution Office confirmed that the Public Prosecution Office is working to appeal cases related to women. Regarding the issue of assessing the loss of personal right by women victims of violence, the Head of the Prosecution Office for the Protection of the Family from Violence confirmed that the prosecution relied on the report on social protection. He said that they did so to assess whether the loss of the personal right by the women came as a result of pressure on the victim or out of her free will. He added that this report appears in the judicial file of the court, upon which the appeal of the judgments is based, even in which the victim dropped her personal right. This is also based on adopting the principle of free will when dropping a personal right or as a result of pressure, and if there a better interest for the victim when her personal right is forfeited or not? The social report is the indicator and guide for the prosecution's appeal to judicial rulings when the personal right is dropped or if it does not make an appeal.

The report attempted to explain the repetition of the forfeiture of personal rights by women victims of violence. We found that forfeiting the right starts at the society level of and the preference for the male over the female in the prevailing culture, and choosing the lighter damage when the victim and perpetrator are from the same family with preference in favor of the male perpetrator. This in addition to considerations for his status in the family.

Likewise, the covering up of crimes within the family by women comes because of an imbalance of power in the interest of the stronger economically and socially, which is the male even if he is a perpetrator, yet these interpretations should not justify impunity.

Magistrate judges may face pressure from the parties to the lawsuit to reduce the punishment for the perpetrators in order to achieve a family reconciliation. In this way, the conviction of the magistrate judge to return the family to its harmony is formed by reducing the punishment for the perpetrators, probably according to his belief that it can disintegrate as a result of the punishment. On the other hand, judges are bound by the law when the personal right in simple victimization crimes is dropped, so that the public right lawsuit is dropped and the case is legally closed with this omission.

The report detects an important gap in the access of women victims of violence to justice, represented by the apparent lack of cooperation between the parties to justice, including the judiciary and the prosecution, on the subject of the victim's social report.

The prosecution adopted a new approach, which calls for the Social Development Directorate in each governorate to submit a social report on the victim explaining their social, family and economic status. The police are also obligated to provide the prosecution with a risk assessment report for the victim if she stays in her home or

is free or confined in a shelter house, but until now, this does not cover all cases of women victims of violence. The social report develops as the victim's condition develops during the prosecution stages, in accordance with the Standard Procedures Manual approved by the Prosecution Office.

Likewise, the victim's goal in going to court may not be to punish or imprison the perpetrator. Rather, she may seek to threaten the perpetrator or correct the imbalance between them, and try to prevent him from harming the victim again or exposing her to violence because of the imbalanced balance within the family. There are also complaints that married women submit to the prosecution office with the intention of pressuring the husband in the Sharia family courts to make concessions and not with the aim of inflicting punishment, and this explains their retreat from those complaints.

The issue of access to justice cannot be studied in isolation from other issues related to human rights, including structural discrimination, poverty, lack of access to health and education, and the lack of recognition of the right to a system of other empowering rights, such as the right to education and work for women. Law reform is essential to address Gender-based violence, but despite that, it is not only laws that require amendment, but policies and practices related to the administration of justice.

The experiences related to gender-based violence and the reasons for its prevalence are similar and indicate a bad mix of social attitudes and its persistence in society, and allow the domination of a culture that leads to impunity for the perpetrator.

It is unlikely that laws, practices and initiatives aimed at eliminating gender-based violence will succeed without adequate awareness of the restrictions and obstacles that women face in their lives, and diminish their freedom of choice and work.

It is worth noting that the experience of women going to court is a frightening and stressful experience in itself. This, especially as it has to deal with employees who are not necessarily sufficiently aware of women's issues. Another procedural barrier is that the burden of proof usually falls on the woman trying to reach Justice, and this burden could delay or stop its entire judicial process.

Appendices

Include a review of the reviewed cases

Misdemeanor 2018/1386 Ramallah Magistrate's Court,

1

Investigative case number: 2018/1503, Ramallah Prosecution Office

Charge:

1. Harm, contrary to the provisions of Article 334/2 of the Penal Code No. 16 of 1960.
2. **Defamation**, contrary to the provisions of Article (188) of the Penal Code No. 16 of 1960.

Trial start date: 4/8/2018.

Case status: A judgment was issued.

The facts as stated in the indictment:

On 26/3/2018, the accused assaulted the complainant (the wife of the accused) on separate parts of her body, causing her harm, according to the medical report, and the accused also defamed his wife's reputation and honor, which damaged her reputation, he did so due to disagreements that occurred between them.

Verdict:

First: Pursuant to the provisions of Article (2/274) of the Criminal Procedures Law No. 3 of 2001, the accused was convicted of harm, in contravention of the provisions of Article (334/2) of the Penal Code No. 16 of 1960. The court accordingly sentenced him to imprisonment for a period of 3 months.

Second: Pursuant to the provisions of Article (2/274) of the Criminal Procedures Law No. 3 of 2001, the court acquitted the accused the charge of defamation, contrary to the provisions of Article (188) of the Penal Code No. 16 of 1960 due to insufficient evidence.

Misdemeanor 2017/1811 Tulkarem Magistrate's Court,

2

Investigative Case No. 1957/2017, Tulkarem Prosecution

Charge: Simple harm in violation of Article 334 Penalties No. 16 of 1960.

Trial start date: 10/15/2017.

Case status: a judgment was issued.

The facts as stated in the indictment:

On 7/10/2017, at about one o'clock after midnight, while the complainant was in the marital home (the house of her accused husband) located in Tulkarm, the de-

fendant hit her with his hands on different parts of her body, as well as struck her head against the wall and bit her head. As a result, she was harmed, and the complainant obtained a first medical report stating her health condition.

Verdict:

Pursuant to the provisions of Article 274/2 of the Criminal Procedures Law No. 3 of 2001, the court decided to convict the accused of the charge against him, which is minor injury, contrary to the provisions of Article 334 Penalties No. 16 of 1960. The court sentenced him to imprisonment for a period of one month.

Felony 2018/397 Major Criminal Court Ramallah

3

Charge:

1. Indecent assault against a male or female below twelfth years of age, contrary to the provisions of Article 298/2 of the Penal Code No. 16 of 1960.
2. Fraudulent kidnapping and coercion of a female, contrary to the provisions of Article 302/2 of the Penal Code, No. 16 of 1960.

Trial start date: 5/6/2018.

Case status: a judgment was issued.

The facts as stated in the indictment:

Misdemeanor 2018/1324 Jericho Magistrate's Court,

4

Investigative case number: 2018/1416 Jericho Prosecution

Charge: Insult, contrary to Article 334/1 of Penal Code No. 16 of 1960.

Trial start date: 11/14/2018.

Case Status: Pending consideration.

The facts are as stated in the indictment:

On 11/11/2018, in Al-Nuweima area, Jericho, following a dispute between the accused and the complainant, on grounds that she left the house without his permission, he attacked her by beating her with a water hose on different parts of her body, which caused her injury, and she obtained a medical report.

Misdemeanor 2019/3131 Jenin Magistrate's Court,

Investigative case number: 2019/21 Jenin Prosecution

Charge: Harm, in contravention of Article 334/1 of Penal Code No. 16 of 1960.

Trial start date: 10/3/2019.

Case status: A judgment was issued.

The facts as stated in the indictment:

On 9/8/2018, the accused assaulted the complainant with his hands all over her body, pushed her against the wall, struck her head against the wall, and strangled her after a discussion between them.

Verdict:

Pursuant to the provisions of the second paragraph of Article 274 of the Criminal Procedures Law No. 3 of 2001, the court decided to convict the accused of the charges against him and sentence him to one month in prison.

Misdemeanor 2018/882 Jenin Magistrate's Court,

Investigative case number: 2018/952 Jenin Prosecution

Charge:

1. Harm, contrary to Article 334/1 of the Penal Code No. 16 of 1960.
2. Threatening with pointing a weapon, in violation of Article 349/1 of Penal Code No. 16 of 1960.

Trial start date: 1/4/2018.

Case status: A judgment was issued.

The facts as stated in the indictment:

On 22/3/2018, the accused, who is the complainant's husband, beat her all over her body, and she obtained a medical report of her condition. He also threatened to hit her with a gas wrench.

Verdict:

Pursuant to the provisions of the second paragraph of Article 274 of the Criminal Procedures Law No. 3 of 2001, the court decided to convict the accused of the first charge against him. The court sentence him to one month imprisonment, convict him of the second charge, sentenced him to one month imprisonment and decided to apply one of the penalties, which is one month imprisonment.

Misdemeanor 2018/2279 Nablus Magistrate's Court,

7

Investigative case number: 2630/2018, Nablus Prosecution

Charge:

1. Harm, contrary to Article 334/1 of the Penal Code No. 16 of 1960.
2. Threatening with pointing a weapon, in contravention of Article 349/1 of Penal Code No. 16 of 1960.

Trial start date: 6/24/2018.

Case status: A judgment was issued.

The facts are as stated in the indictment:

On 22/6/2018, at about 1 p.m., the accused, upon their return from hospital to their home, hit the complainant with his hands on her shoulder. Then the complainant went to the house of the accused's sister's husband to inform them about what had happened. At 10 o'clock the complainant returned to the house and the accused hit the complainant again on her stomach and all over her body, he went to the kitchen and brought a knife and began threatening her to burn the house and break it. As a result she obtained a medical report of her health condition.

Verdict:

The court decided

1- Pursuant to the provisions of Article 274/2 of the Criminal Procedures Law No. 3 of 2001, the accused was convicted of the first charge against him, which is injury, in violation of Article 334 of the Penal Code No. 16 of 1960, and sentenced to a fine of 10 Jordanian dinars.

2- Pursuant to the provisions of Article 274/1 of the Criminal Procedures Law No. 3 of 2001, the public court decided to acquit the accused from the second charge assigned to him, which is threatening with pointing a weapon, contrary to Article 349/1 of the Penal Code No. 16 of the year 19, for lack of evidence.

Misdemeanor 2018/2503 Hebron Magistrate's Court,

8

Investigative case number: 2018/2561, Hebron Prosecution

Charge: Simple harm in contravention of the provisions of Article 334 AD Penal Code No. 16 of 1960.

Trial start date: 7/7/2018.

Case status: a judgment was issued.

The facts are as stated in the indictment:

The complainant filed a complaint stating that the accused, who was her husband, had beaten her, causing her injury. The complainant obtained a medical report of her health condition.

Verdict:

In accordance with the provisions of Article 274/2 of the Criminal Procedures Law No. 3 of 2001, the court decided to convict the accused and sentence him to imprisonment for a period of three months.

Misdemeanor 2018/2848 Jenin Magistrate's Court,

9

Investigative case number: 2018/3186 Jenin Prosecution

Charge:

1. Severe harm in complicity, in contravention of Article 333 of the significance of Article 76 of Penal Code No. 16 of 1960. (For all accused)
2. Simple joint harm, contrary to the provisions of Article 334/1, as evidenced by Article 76 of the Penal Code No. 16 of 1960. (For all accused)

Trial start date: 2/10/2018.

Case status: A judgment was issued.

The facts as stated in the indictment:

On 29/9/2018, the defendants hit the complainants all over their bodies with an ax and sticks that they had, causing them injury. They obtained medical reports of their condition.

Verdict:

In accordance with the provisions of Article 274 of the Criminal Procedures Law No. 3 of 2001, the court decided to convict the accused of the first charge. The court sentences them to imprisonment for a period of three months, and due to reconciliation, decided to replace imprisonment with a fine of half a dinar for each day of imprisonment and dropping the public right lawsuit against the accused for the second charge assigned to them, because of dropping Personal right.

Felony 441/2018 Major Felonies Court, Ramallah

10

Charge:

1. Defilement of honor with violence and threats to a person under the age of fifteen, in contravention of Article 296/2 of the Penal Code No. 16 of 1960.
2. Deceptive or coerced kidnapping of a male or female by assault with rape or indecent assault, in contravention of Article 302/4 of the Penal Code No. 16 of 1960.

Trial start date: 12/21/2016.

Case status: A judgment was issued.

The facts as stated in the indictment:

On January 8 2016, the victim was playing with children. The accused stopped his car and called the victim and told her that he wanted to buy sweets for her. He kidnapped and took her with him in the car and sensitized her entire body and took out his penis and asked her to hold it. Then the child screamed and cried, and after he violated her honor, he dropped her to a street in Ramallah, left her and departed the place.

Verdict:

Pursuant to the provisions of Article 302/4 of the Penal Code No. 16 of 1960, the court decided to sentence the convicted person to hard labor for a period of 15 years.

Misdemeanor 2019/1428 Tulkarem Magistrate's Court,

11

Investigative case number: 2019 /

Charge: Gross harm, contrary to Article 333 of the Penal Code No. 16 of 1960.

Trial start date: 1/8/2019.

Case status: A judgment was issued.

The facts as stated in the indictment:

On July 16, 2019, in the evening time, the accused hit the complainant, his wife, with hands all over her body, which caused serious harm to her. She was transferred to the hospital and she obtained a medical report of her health condition.

Verdict:

Pursuant to the provisions of Article 274/2 of the Criminal Procedures Law No. 3 of 2001, the court decided to convict the accused of the charge against him. The charge was gross harm, contrary to the provisions of Article 333 of the Penal Code

No. 16 of 1960, and sentencing him to imprisonment for a period of three months. Following reconciliation, the court decides to replace the imprisonment penalty with a fine, at the amount of half a Jordanian dinar for each day of imprisonment, the accused shall be imprisoned for the legal period in case the fine is not paid.

Misdemeanor 739/2019 Qalqilya Magistrate's Court

12

Charge: Simple harm, contrary to Article 333 of the Penal Code No. 16 of 1960.

Trial start date: 9/6/2019.

Case status: a judgment was issued.

The facts as stated in the indictment:

On 6/8/2019, the accused assaulted the complainant with his hands, following a dispute between them, and the complainant obtained a medical report stating her health condition.

Verdict:

Pursuant to the provisions of Article 274/2 of the Criminal Procedures Law No. 3 of 2001, the court decided to convict the accused of the charge against him, which is the charge of harm, contrary to Article 334 of the Penal Code No. 16 of 1960, and sentenced him to one month imprisonment.

Felony 2019/235 Ramallah Court of First Instance

13

Charge: indecent assault, contrary to the provisions of Article 296/1 of the Penal Code No. 16 of 1960.

Trial start date: 3/18/2018.

Case status: A judgment was issued.

The facts as stated in the indictment:

On 06/23/2016, while the complainant was in the public street, the accused stopped and called her, and when she asked him what he wanted from her, he put his hand on her genitals and grabbed them. The complainant pushed him and shouted, and then she called her husband who came to the place and they searched for the accused, the complainant identified the accused, and the police came and arrested him.

Verdict:

Pursuant to the provisions of Article 281 of the Code of Criminal Procedure, the court decided to amend the description of the charge against the accused from the charge of indecent assault contrary to Article 296/1 of the Penal Code No. 16 of 1960 to the charge of indecent touching contrary to Article 305 of the same law. Pursuant to the provisions of Article 274/2 of The Criminal Procedures Law, in force, the court decided to convict the accused of the charge assigned to him, as the amendment, on indecent caress, contrary to Article 305 of the Penal Code No. 16 of 1960. The court sentenced him to three months imprisonment, provided that the period he spent in detention is deducted.

Felony No. 109/2018 Major Felonies Criminal Court, Jenin**14****Investigative case number 2188/2018, Jenin Prosecution****Charge:**

1. Inadequate attempt of rape, contrary to the provisions of Articles (292) and (68/2) Penalties 16 of 1960
2. Indecent touching, contrary to Article (2/305) Penalties 16 of 1960
3. Violating the sanctity of homes at night contrary to Article (347/1) Penalties 16 of 1960 for being one of the interconnected crimes in accordance with the provisions of Articles (157) and (158) of the Criminal Procedures Law No. 3 of 2001

Trial start date: March 28, 2019**Case status:** - A judgment was issued**The facts as stated in the indictment:**

On 26/6/2018, at around 4 a.m., while the victim was sleeping in her room, she and her 15-year-old younger sister woke up when the accused entered her room through a house under construction from the kitchen window. He then entered the victim's house and to wake her, where he said to her, "Bring my cell phone that I bought". She stopped him and tried to scream, so the accused put his hand on her mouth and told her that he missed her and that he wanted her, meaning that he wanted to rape her. He then tried to raise the victim's hands to remove them from the pants and kissed the victim on the cheek without her consent, and then he ran away from the place.

The verdict:

In accordance with the conviction decision and the statements of the Public Prosecution representative, the convicted person was sentenced to temporary hard labor for 3 years for the first charge and imprisonment for 3 months for the third charge. Additionally, in accordance with Article (72) of Penal Code No. 16 of 1960, the court decided to combine penalties and implement the most severe penalties by imprisoning

the convict and imprisonment with temporary hard labor for (3) years. Following reconciliation and forfeiting the personal right and pursuant to Article (99) of the Penal Code 16 of 1960, the court decided to reduce the penalty so that the imprisonment becomes one year. Because the court believes that the convicted person will not return to do it again and pursuant to Articles (284) and (285) of the Criminal Procedures Law, the court decided to suspend execution of the penalty for a period of 3 years from the date the judgment acquires the final degree and a fine of 500 dinars.

Misdemeanor No. 64/2018 in the Tubas Magistrate's Court

15

Charge:

1. The harm described in the text of Article (2/334) Penalties 16 of 1960 for the first accused
2. The harm described in the text of Article (2/334) Penalties 16 of 1960 for the second accused

Trial start date: 1/24/2018

Case status: A judgment was issued

The facts are as stated in the indictment:

On January 22, 2018, the accused, who is the husband of the complainant and his mother, the second accused, beat the complainant all over her body, causing her harm, and the defendants did so without a legitimate right.

Verdict:

The court, in accordance with the provisions of Article (334/2) of the Penal Code No. 16 of 1960, decided to drop the public right lawsuit against the defendants from the charge against them, as the amendment, which is relevant to harm, contrary to Article (334/2) of the Penal Code No. 16 of 1960. Following reconciliation and dropping personal the victim's personal right.

Felony No. 44/2019, Tulkarm Court of First Instance

16

Investigative case number 243/2017 Tulkarem Prosecution

Charge: Rape of a helpless female, in violation of Article 293 of the Penal Code 16 of 1960

Trial start date: 10/12/2017

Case status: A judgment was issued

The facts as stated in the indictment:

The accused raped his victim's sister, who suffers complete mental and physical disability. He took advantage of the absence of everyone in the house, took off her clothes, and inserted his penis into her vagina. On 5/2/2017, after the victim's mother noticed a swelling in her stomach, she took her to the doctor, who He told them she was about four months pregnant.

Verdict:

The conviction decision stated that after hearing the pleading of the Public Prosecution, the defense and the statements of the convict and pursuant to the provisions of Article (293) of the Penal Code No. 16 of 1960, the court decides to sentence the convict to temporary hard labor for a period of 3 years. Following reconciliation and dropping the personal right and pursuant to the provisions of Article (99/3) of the Penal Code No. 16 of 1960, the court decided to reduce the prison term to one year and to deduct the period of detention from the sentence.

Felony No. 441/2018 Major Felonies Court / Ramallah**17****Investigative case number 1073/2016 Ramallah Prosecution Office****Charge:**

1. Violence and threat of indecent assault on a person under fifteen years of age, contrary to Article (2/296) Penalties 16 of 1960
2. Deceitful kidnapping and coercion of a male or female who was assaulted by rape or indecent assault in contravention of Article (4/302) Penalties 16 of 1960

Trial start date: 4/4/2018**Case status:** a judgment was issued**The facts as stated in the indictment:**

On January 8 2016, while the child was near Al Masri Car Inspection station, located in Al-Bireh, where she was playing with the children, the accused stopped with his Hyundai car, called the victim, and told her that he wanted to buy her sweets and kidnapped her. He took her with him in his car and touched her all over her body and he took out his penis and asked her to hold it. Then the child cried and screamed, and after he violated her honor, he dropped her to a street in Ramallah, left her and left the place.

Verdict:

Pursuant to the conviction decision and after hearing the statements of the public prosecution attorney, the convict and his attorney, the court decides, in accordance with the provisions of Article (4/302) of the Penal Code No. 16 of 1960, to order the convicted person to imprisonment with hard labor for a period of fifteen years.

Misdemeanor No. 4404/2018 Ramallah Magistrate's Court

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Investigative case number 4802/2018, Ramallah Prosecution

Charge: unintended harm contrary to Article (334/1) Penalties 16 of 1960

Trial start date: 10/3/2018

Case status: A judgment was issued

The facts as stated in the indictment:

The defendant, following a dispute between the complainant and his wife, and his disagreement with the complainant's husband, after the complainant's husband left, attacked the complainant and her daughter, and removed her scarf, hit her and pushed her against the wall twice, and the accused's wife. He also beat the complainant with the stick.

Verdict:

Based on the aforementioned and pursuant to the provisions of Article (334/2) of the Penal Code No. 16 of 1960, the court decided to indict the accused. The indictment was of the charge assigned to him, which is the charge of unintended harm, contrary to Article (334/1) of the Penal Code No. 16 of 1960, and accordingly, decided to sentence him to imprisonment for a period of three months.

Felony No. 295/2018 Major Felonies Court / Ramallah

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Investigative case number 2898/16 Ramallah Prosecution

Charge: Attempt to murder, contrary to the provisions of Article (326, 70 and 60) Penalties 16 of 1960

Trial start date: 7/3/2018

Case status: A judgment was issued

The facts as stated in the indictment:

On 07/18/2016, around 12 noon, the accused assaulted the complainant / (his wife) with a knife that he brought from the kitchen of the complainant's mother's house, in which the accused and the complainant were present about ten days before the accused assaulted the complainant. He went to the room where he was sleeping in and hit the complainant with a knife in the face, stomach, and back, until the knife bent. Despite the complainant's attempt to defend herself and keep away the accused from her, he continued to stab her in the right arm two times. Then he fled the house and the complainant got a medical report in particular.

Verdict:

Pursuant to the conviction decision and after hearing the statements of the Public Prosecution, the court decided, in accordance with the provisions of Articles (326) and (70) of the Penal Code No. 16 of 1960, to sentence the convicted to imprisonment for a period of four years, provided that the period spent on this case is deducted.

Felony No. 137/2019, Tulkarm Court of First Instance**20****Investigative case number 1315/2019, Tulkarm Prosecution**

Charge: Attempt of rape in violation of Articles (1/295), (300), (70) and (101) of the Penal Code 16 of 1960

Trial start date: December 19, 2019

Case status: A judgment was issued

The facts as stated in the indictment:

On 25/6/2019, at around eleven o'clock at night, the 15-year-old female complainant was in the house of her accused father. During that time, the accused attempted to rape his daughter, the complaining witness. He pulled her by her hair and threw her on the ground and sat on her. He then tried to touch her chest, where the complainant prevented him from and pulled his hand and then he tried to remove her blouse and threatened to kill her and said to her (Oh, let me or I'll kill you), but the complainant pushed him and tightened him by his penis and ran away from the place.

Verdict:

Pursuant to the conviction decision, after hearing the pleading of the prosecutor and the pleading of the convicted and his attorney, the court decided, in accordance with the provisions of Article (295), based on Article (70) of the Penal Code, to sentence the accused to temporary hard labor for a period of one year. Following reconciliation and forfeiting the personal right, the court decided to reduce the sentence. This was also following the accused's clear and frank recognition and belief before the court stating that he will not repeat such acts. Thus the court decided, in accordance with the provisions of Articles (284) and (285) of the Code of Criminal Procedure, to suspend the implementation of the penalty imposed against him for a period of three years, starting from the date of the final ruling.

