

NGO Shadow Report to the Sixth Periodic Country Report of the Israeli Government to the CEDAW Committee

September 2017



Submitted by:

The Palestinian Working Woman Society for Development

Occupied Palestinian Territory

Executive Summary

This report on the application of the UN Convention on the Elimination of All Forms of Discrimination against Women is an initiative of the Palestinian Working Woman Society for Development (PWWSD), corresponding the sixth Periodic Israeli Country Report to the CEDAW Committee. The report focuses on the period from 2010 to present. It is structured to focus on two particular issues according to the CEDAW articles 2 and 16 of the Convention; namely, the issues of female Palestinian prisoners and residency rights of Palestinian women. In addition to CEDAW, Bangkok rules are included as a reference to emphasize concerns in the treatment of women in detention.

On a different note, it is worth mentioning, in reference to Israel's report to the Committee stating that the Palestinian Territories are out of the effective control of the implementation of CEDAW, the United Nations has since 1967 affirmed that Israel, as occupying Power, bears international law obligations in the West Bank, including East Jerusalem and Gaza. The General Assembly adopted many resolutions to this effect, for instance in resolutions 56/60(2001), it reaffirmed that the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention) is applicable to the Occupied Palestinian Territory, including East Jerusalem and demanded that Israel accept the de jure application of the Convention. On September 15, 1967, the United Nations Security Council in resolution 271(1969) called upon “Israel scrupulously to observe provisions of the Geneva Conventions and international law governing military occupation.” The State of Israel rejected the de jure application of Fourth Geneva Convention as well as obligations to the Palestinian population under international human rights treaties that it has ratified. The official Israeli position is that the West Bank, including East Jerusalem and Gaza, is not legally occupied and government actions do not contravene specific provisions of the Fourth Geneva Convention. The Israeli Supreme Court has nevertheless considered the West Bank and Gaza, prior to the unilateral disengagement, as territories under belligerent occupation.

Contextualizing Discrimination under Occupation

General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-conflict situations (November 2013) by CEDAW affirmed the application of the Convention in situations of armed conflict and occupation (paragraph 4). It underlines that State parties to the Convention are responsible for the human rights of individuals “*within their territory or effective control, even if not situated within their territory*” (paragraph 5). This is a clear indication that the Israeli government is responsible for the human rights situation of Palestinian women and girls who are under Israeli occupation. This is reiterated in the “List of issues and questions prior to the submission of the sixth periodic report of Israel” (16th November 2016) which reiterated that “*the Convention applies in all territories under the effective control of the State party and noting that the State party is an occupying power of Palestinian Territory.*” (Page 2). Thus, Israel cannot evade abiding by its legal obligations to respect and uphold the human rights of Palestinian women and girls in the areas under their effective control.

This report affirms the need for special protection to be afforded to Palestinian women and girls. The Committee’s General recommendation No. 19 on Violence against women underlines that war and occupation of territories often result in “*sexual assault of women, which require specific protective and punitive measures*” (1992, paragraph 16). Furthermore, General Recommendation on Women in Conflict Prevention, Conflict and Post-conflict situations (No. 30) underlines that women and girls are particularly targeted with sexual violence in armed conflict in order to humiliate, terrorize, and dominate a particular ethnic group (paragraph 35), and unfortunately, Palestinian women and girls are subject to intimidation, violence, and domination by Israeli occupation forces.

Illegal Transfers, Torture and Sexual Violence of Female Detainees

Historically, Palestinian women and girls in Israeli detention were subject to various forms of violence and ill-treatment, including sexual assault, harassment, threats, sleep deprivation, hitting, kicking, and cursing – in contravention with article 2 of the Convention. Additionally, Palestinian women and girls who are arrested from the Occupied Territories are routinely transferred inside Israel, which contravenes the Geneva Convention IV’s prohibition on population transfer of the occupied population (Article 49 in conjunction with Article 76 and Rome Statute Article 8). As of March 2017, 42 were held in HaSharon Prison and 13 were held in Damon Prison¹, both located in the occupying power’s territory. This practice is considered

¹ Addameer and CodePink. “55 Palestinian Women and Girls In Israel Prisons on International Women's Day”, 7 March 2017. Available at <http://www.addameer.org/news/addameer-and-codepink-55-palestinian-women-and-girls-israel-prisons-international-womens-day>

discriminatory against women, as in the case of male prisoners, some are held in Ofer prison located inside the Occupied Territory. This signifies that the policy of transfer of Palestinian women and girls may in fact amount to gender-based discrimination and violates their protection under international law (Article 49 in conjunction with Article 76 and Rome Statute Article 8).

In addition to the gender-based discrimination and violence, women are incarcerated in old prisons, with facilities designed for men that rarely meet the gender-specific needs of its female prisoners and does not provide gender-sensitive social services (in contravention with the Bangkok rules, Rule 5). These discriminative practices contribute to placing women in a vulnerable situation and violate their rights.

Arrest and Ill-Treatment

Numerous reports show that the majority of Palestinian women and girls were subject to forms of physical or mental pressure during their arrest and interrogation by Israeli forces, including sexual harassment, humiliation, threats, and physical assault² with the purpose of coercing a confession, which falls under the definition of torture by the Convention Against Torture.³ Palestinian women experience no special consideration to their gender or religious beliefs from the Israeli Military forces. In addition, the majority of women are arrested in the sanctuary of their home, not only interfering with their privacy (The Universal Declaration of Human Rights; Article 12, 1948), but also leaving traumatic long-lasting consequences on women and their children.

On International Women's Day March 8th, 2017, were 55 Palestinian women and girls in Israeli detention. These included 12 children and 2 Palestinian women held under administrative detention without charge or trial. Among these detainees, 16 are mothers to 58 children. Newest numbers from Addameer indicates that 65 Palestinian women were incarcerated in August 2017⁴.

Sexual Assault of Detainee H.S.

One case of sexual violence is that of H.S., who was arrested on February 16th, 2012, during a raid on her home in Burqin village in Jenin by around 50 Israeli soldiers and several police dogs. H.S. had previously spent two years under administrative detention without charge and was released only in October 2011⁵.

² Addameer, "In Need of Protection: Palestinian Female Prisoners in Israeli Detention." November 2008. Available at: <http://www.addameer.org/sites/default/files/publications/in-need-of-protection-palestinian-female-prisoners.pdf>

³ General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 1, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, available at: <http://www.refworld.org/docid/3ae6b3a94.html> [accessed 3 April 2017].

⁴ "Statistics". August 2017. Available at <http://www.addameer.org/statistics>

⁵ Ibid.

H.S. was grabbed by a soldier and despite her requests to have a female hold her and attempts to remove his arm; he beat her upper body and slapped her. H.S. was then taken without being able to wear her headscarf as she requested, blindfolded and taken to a military jeep and was forced to sit on the floor. At Salem Detention Center, she was blindfolded for two hours, subjected to beatings and a humiliating strip search by a male (in contravention with the Bangkok Rules rule 19). She was placed in solitary confinement following her illegal transfer to HaSharon Prison (in contravention with Geneva Convention IV Article 49 in conjunction with article 76).⁶

H.S. was subsequently placed under administrative detention without charge or trial. She went on a hunger strike in protest of her detention following her sexual assault, torture and ill treatment on the hands of soldiers and interrogators on the first day of her arrest. On March 19th, 2012, an Israeli doctor from Physicians for Human Rights indicated that H.S. was in a life-threatening condition. Despite this, she reported that she was dragged across the floor and treated violently during transfer.⁷

The Degrading Treatment of 16-Year-old Marah Bakeer

Another case that illustrates the degradation of Palestinian women and girls is the case of Marah Bakeer, a 16-year-old girl from Jerusalem, who was arrested in October 2015, after being shot 10 times by Israeli soldiers. Addameer accounted:

“She was later transferred in a degrading manner by an ambulance to Hadassah Ein Karem, while she was left with her body exposed despite her repeated requests to cover her body. Marah was subsequently taken to a hospital room, with her hand and leg tied to the bed, with the presence of two male guards, who cursed her and her mother. One of the guards told her to die, and another guard took a ‘selfie’ with her against her will.”⁸

The Positional Torture of 22-year-old Palestinian Woman

The policy is similarly illustrated in the case of 22-year-old woman prisoner S.A. from Abu Dis in Jerusalem, who was arrested during a pre-dawn raid on her home on April 19th, 2016. S.A was placed in stress positions, subject to threats, sleep deprivation, and banging on the table in front of her by interrogator in Al-Moscobiyeh prison, before being transferred to Damon. She was furthermore denied attorney access for

⁶ “H. Yahya S.”. 2012, Addameer. Available at <http://www.old.addameer.org/etemplate.php?id=161>

⁷ Ibid.

⁸ Addameer and CodePink. “55 Palestinian Women and Girls In Israel Prisons on International Women's Day”, 7 March 2017. Available at <http://www.addameer.org/news/addameer-and-codepink-55-palestinian-women-and-girls-israel-prisons-international-womens-day>

18 days.

She recounted to Addameer's attorney that during one of the days of the brutal interrogation: "[...] the interrogator 'Reno' told me that he would stay with me all night, and then he tied my hands behind the back of the chair with strapped restrictions on the chair I sat in, and I was kept in this position from 10:00 PM to 4:30 AM."⁹

These various accounts of Palestinian female prisoners being apprehended, arrested, and interrogated by male Israeli police officers, soldiers, and interrogators contravene General Recommendation on women in conflict prevention, conflict and post-conflict situations (No. 30) which recommends that States employ only female police officers for female detainees (paragraph 17).¹⁰

The Arrest of Human Rights Defender Manal Tamimi

Furthermore, General Recommendation on Women in Conflict Prevention, Conflict and Post-conflict situations (No. 30) underlines that specific groups of women and girls may be particularly prone to violence, including women human rights defenders (paragraph 36).

As mentioned by Michael Lynk, the Special Rapporteur on the situation of Human Rights in the occupied Palestinian territories, Manal Tamimi, a female Palestinian human rights defender, who nonviolently advocates to raise awareness of the Israeli Annexation wall in the village of Nabi Saleh and works as a field researcher with the Women's Center for Legal Aid and Counseling (WCLAC), was arrested in March 2016 in a night raid by Israeli military forces. She was subsequently subjected to strip searches, physical assault, illegal transfer from the occupied territory to Ramleh and HaSharon prisons (in contravention with the Geneva Convention IV), and subjected to long interrogation sessions.¹¹

Degrading Transfers: The Case of Palestinian Legislative Council Member Khalida Jarrar

⁹ Affidavit to Addameer Attorney Mona Naddaf at Damon prison on 07/06/2016 with 22-year-old prisoner S.A. Excerpt available at Addameer and CodePink. "55 Palestinian Women and Girls In Israel Prisons on International Women's Day", 7 March 2017. Available at <http://www.addameer.org/news/addameer-and-codepink-55-palestinian-women-and-girls-israel-prisons-international-womens-day>

¹⁰ UN Committee on the Elimination of Discrimination Against Women (CEDAW), General Recommendation No. 28 on the Core Obligations of States Parties under Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, 16 December 2010, CEDAW/C/GC/28.

¹¹ 16 March 2017. Thirty-fourth session of the Human Rights Council. Human rights situation in Palestine and other occupied Arab territories. 16 March 2017. (A/HRC/34/70).

Transfer processes from prisons to courts are often physically exhausting and dehumanizing. Women are placed in cage-like holding places for several hours. In April 2015, Palestinian Legislative Council member Khalida Jarrar, who suffers from hypercholesterolemia and multiple ischemic infarctions, was arrested. Initially held under administrative detention without charge or trial, she was later charged with “membership in an illegal organization” in her capacity as Palestinian Legislative Council member. Jarrar described one day in the transfer process to court as follows:

On April 29th, 2015 at around 2:15 am, the guards entered the cell to wake us up to go to court. I was with prisoner H. We woke up and prepared ourselves to go to Ofer military court. At 3:30 am, they took us out of the section after shackling our hands and legs.

[We] entered the Nahshon vehicle and sat in a 1.5 x 0.5 meter space (a cell inside the vehicle). We sat on leather chairs opposite to each other and then the cell's door was closed. This was at around 3:45. The vehicle moved at around 5:00 am. We sat inside the car for an hour and 15 minutes without moving. We arrived at Ramleh at 5:30. We were taken to a huge Nahshon vehicle, with a cell of 50 x 80 cm.

The seats were very small and made of iron. We were forced to sit in a 90-degree angle because otherwise we couldn't fit. We couldn't move at all while sitting, and the cell had surveillance camera. The distance between HaSharon and Ramleh, “stop” is an hour and a half drive. And, from Ramleh to Ofer military court is 45 minutes drive. We stayed in the car from 5:30 until around 8:45.

At 3:45 pm I was taken to the court room, and back to the cell at 4:30. At 7:15 the Nahshon forces came to take us in order to transfer us back to prison. We reached the prison at 11:50 pm. The Nahshon forces took us to the room, a man unshackled us [...] Our legs were shackled from the beginning of the journey until the end. Our hands were unshackled only at the cell in Ofer and inside the court.¹²

Residency Rights as Women Rights: Palestinian Women Deprived of Residency and the Rights to Family Life

It is crucial to underline, as mentioned in General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-conflict situations (November 2013) by CEDAW (paragraphs 59-60) that statelessness of women may result in the denial of the rights to pass nationality to children. In addition, stateless women are subject to increased risk of ill treatment in situations of armed conflict due to absence of protection, absence of access to social security rights, and absence of access to

¹² Affidavit taken by Addameer attorney, 30 April 2015. Excerpt available at <http://www.addameer.org/publications/occupied-lives-imprisonment-palestinian-women-and-girls>

political participation.

As noted in General Recommendation No. 30 on Women in Conflict Prevention, Conflict and Post-conflict situations (November 2013) by CEDAW; “*inequalities in marriage and family relations affect women’s experiences in conflict and post-conflict situations [...]*”. The inequality and restricted access to choose a life partner based on bureaucratic hurdles (which are specific to Palestinian women) have a tremendous impact on the rights to freely choose a life partner.

Impeding Marriage Unions

Article 16 of the Convention states that women should have the right to “*freely choose a spouse and to enter into marriage only with their free and full consent*”, and that they have “*The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children*”. However, the Nationality and Entry into Israel Law of 2003 (subsequently extended 2004, 2005), prohibits several hundred Palestinian women who are residents and citizens of Israel from family reunification in cases where their family members are from the Occupied Palestinian Territory. The law effectively prohibits Palestinian women from the occupied territories to receive residency status or citizenship in Israel – even if she is married to a Palestinian with Israeli citizenship. This severely disrupts a woman’s ability to freely choose and marry a spouse of her choice.¹³ It is important to note that this law does not apply to Israeli settlers living in illegal settlements in the West Bank, underlining the discriminatory nature of the law. Palestinian women, on the other hand, who are residents or citizens of Israel, cannot pass their citizenship to a Palestinian from the Occupied Territory, which underlines the ethnic cleansing motivations associated with these prohibitions.¹⁴

The restrictions on residency consequently violate the Universal Declaration of Human Rights, Article 16(1), which states “*Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family.*” Our research found that Israeli-imposed bureaucratic restrictions severely undermine the rights of women to freely choose a spouse and live as one family with their children and partners.¹⁵ Furthermore, these restrictions result in greater familial pressures to marry within the same ID status, further impeding a woman’s right to choose her spouse.¹⁶ Thus, a Palestinian woman’s right to marry is severely impeded,

¹³ The Working Group on the Status of Palestinian Women Citizens of Israel. May 2005. NGO Alternative Report, Available at <https://www.adalah.org/uploads/oldfiles/features/women/IWRAW.pdf>

¹⁴ Fadwa Allabadi, Tareq Hardan, 2016. “Marriage, Split Residency, and the Separation Wall in Jerusalem”. Jerusalem Quarterly, Issue 65, 2016. Available at <http://www.palestine-studies.org/jq/fulltext/198348>

¹⁵ The Palestinian Working Woman Society for Development (PWWSD). “Barriers to Love, Life, and Residency Rights: A Case Study on Kufr Aqab”. December 2014. Available at http://www.rightsecretariat.ps/portal/uploads/Barriers_to_Love_Life_and_Residency_Rights.pdf

¹⁶ Ibid

despite the Universal Declaration's provision that she may marry and start a family "without any limitation due to race, nationality, or religion" (article 16).¹⁷ Moreover, the restrictions on family reunification and residency have profound economic impacts, causing further disadvantage to women.¹⁸

Life and Death: Mobility Restrictions of Palestinian Women

The restrictions on mobility and residency have profound consequences on the lives of Palestinian women. One woman, who expressed to PWWSD that she gave birth at a Jerusalem hospital due to this requirement for the registration of her child (who would then otherwise be left without an ID), explained that this resulted in the absence of her husband during this important moment.

"During my childbirth, he was unable to be there. For the birth of my first daughter, he stayed at the checkpoint waiting to get a permit and he was not able to get it until the following day [...] after her birth" (November 5th, 2014).¹⁹

Another woman expressed that due to mobility restrictions and having an ID differing from her deceased son's, she has difficulty in visiting his grave. She said:

"I also have a son who passed away, May he rest in peace, he had a Jerusalem ID, and all of us are facing difficulties because of this ID issue. We bury the dead in Bab Al-Asbat, near the Aqsa mosque, where there are problems with burying the dead. They do not let us in until we go through a long process. [...] But after all, when I don't get a permit, I cannot visit his grave." (November 4, 2014)²⁰

Therefore, while the family unit is "entitled to protection" (The Universal Declaration of Human Rights; Article 16, 1948) by the State, it is impeded as a unit in the context of Palestinians who have different ID cards during life and after death, which is a bureaucratic nightmare of policies that put them at disadvantage compared to Israeli citizens. In addition, the obstruction of the Palestinian women and their families' freedom of movement affect women in all walks of life. (The Universal Declaration of Human Rights; Article 13, 1948).

¹⁷ United Nations General Assembly. (10 December 1948). Universal Declaration of Human Rights.

¹⁸ Abdel Majeed, A., & Abu Fasha, W. (2010). Impacts and Challenges Facing Palestinian Families Regarding Residency in the Palestinian Territory: An Exploratory Study with a Gender Perspective. Ramallah: Center for Development Studies, Birzeit University.

¹⁹ The Palestinian Working Woman Society for Development (PWWSD). "Barriers to Love, Life, and Residency Rights: A Case Study on Kufr Aqab". December 2014. Available at http://www.rightsecretariat.ps/portal/uploads/Barriers_to_Love_Life_and_Residency_Rights.pdf

²⁰ Ibid.

Conclusion and Recommendations

This report intends to underline policies of detention and residency rights; policies that severely violate the rights of Palestinian women and girls. The Israeli occupation inherently violates their rights on a daily basis, subjecting them to mobility restrictions associated with illegal practices, such as the Apartheid Wall, illegal occupation of Jerusalem, restricted access to water in the West Bank in comparison with illegal Israeli settlements, and daily violence at military checkpoints. This report also asserts that the Israeli government must take responsibility for its actions in the occupied territories, including the aforementioned discriminatory practices, violent prisoner transfers, gender-based violence in detention, and in-residency applications processing, in alignment with the Core Obligations of States Parties in General Recommendation 28 (Article 12) of CEDAW which affirms:

“Although subject to international law, States primarily exercise territorial jurisdiction. The obligations of State parties apply, however, without discrimination to both citizens and non-citizens, including refugees, asylum-seekers, migrant workers and stateless persons, within their territory or effective control, even if not situated within the territory. State parties are responsible for all their actions affecting human rights, regardless of whether the affected persons are in their territory.”

This is further emphasized in the General Recommendation on Women in Conflict Prevention, Conflict and Post-conflict situations (No. 30). In its recommendation, the Committee reaffirms that “[...] *the obligations of State parties also apply extraterritorially to persons within their effective control, even if not situated within their territory [...]*”.²¹

It is from this perspective that PWWSD recommends that Committee work to uphold safeguarding and afford special protection to Palestinian women and girls, to end the physical and psychological intimidation and violence against them from Israeli soldiers, police, and interrogators. PWWSD further recommends that the Committee address the Israeli military occupation as structural violence that severely violates the rights of Palestinian women and girls.

²¹ UN Committee on the Elimination of Discrimination Against Women (CEDAW), General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations, 1 November 2013, CEDAW/C/GC/30, paragraph 8.