

STATE OF PALESTINE



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The colour codes indicate whether the laws comply with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women, and recommendations of the country's Universal Periodic Review.

Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

YES

The law provides for gender equality and/or protection from gender-based violence and is substantially compliant with international standards. A green category does not indicate that the law is perfect or that gender justice in the relevant topic area has been fully achieved.

NO

The law does not provide for gender equality and/or there is no or minimal protection from gender-based violence.

Partly

Some gender justice aspects of the law have been addressed, but important gender inequalities remain.

No available data or inadequate information.

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Palestine unilaterally ratified CEDAW by Presidential Decree No. 19 of 2009. After UN recognition of Palestine as a State, Palestine acceded to CEDAW in 2014. Palestine has entered no reservations to CEDAW.

Constitution

Article 9 of the Basic Law provides that Palestinians shall be equal before the law and the judiciary, without distinction based upon race, sex, colour, religion, political views, or disability.

NATIONALITY LAW

NATIONALITY

There is no Palestinian nationality law. The Israeli occupation prevents state institutions from conferring nationality. Identity cards are issued to Palestinians registered in the Palestinian population registry, which is controlled by the Israeli military under a law pertaining to the occupation. Palestinian authorities can confirm residency status for Palestinians under the Palestinian Civil Status Law no. 2 of 1999, and Palestinian women can confer residency on their children.

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CRIMINAL LAWS

Domestic violence

Palestine has no stand-alone domestic violence legislation.

Abortion for rape survivors

Abortion is prohibited in the West Bank by the Jordan Penal Code (Articles 321–325) and in Gaza by the Criminal Code of 1936 (Articles 175–177). However, in practice authorities allow abortions in the first four months of pregnancy in situations of rape or incest, or if the mother has a disability or her life is at risk.

Female Genital Mutilation / Cutting (FGM/C)

There is no legal prohibition. FGM/C is not reported.

Marital rape

Marital rape is not criminalized.

Sexual harassment

Sexual harassment is not criminalized by the Labour Code. Article 305 of the Penal Code criminalizes unwanted sexual conduct (sexual molestation) of women who are above the age of 18 years.

Human trafficking

Palestine does not have comprehensive anti-trafficking legislation. Some provisions of the Penal Code of Jordan apply to trafficking in the West Bank.

Rape (other than of a spouse)

Rape is criminalized by Article 152 of the Criminal Code of 1936 in Gaza Strip and Article 292 of the Penal Code of 1960 in the West Bank.

Femicide: Mitigation of penalty (so called 'honour' crimes)

Laws allowing mitigation of penalties for 'honour' crimes were repealed in 2011, 2014 and 2018 in the West Bank. However, the government in Gaza has not applied the reforms. In 2018, Article 99 of the Penal Code for the West Bank was amended to remove the discretion granted to judges to reduce penalties in cases of honour crimes and other cases of femicides (exclusion of mitigating measures in crimes and misdemeanours against women and children).

Sex work and anti-prostitution laws

Prostitution is prohibited by Articles 309–318 of the Penal Code in the West Bank and Articles 161–166 of the Criminal Code of 1936 in Gaza.

Exoneration by marriage

In the West Bank, Article 308 of the Penal Code previously exonerated a rapist of criminal responsibility if he married the rape survivor. Decree No. 5 of 2018 repealed Article 308 of the Penal Code. There is no provision exonerating a rapist by marriage in the Criminal Code of 1936 for Gaza.

Adultery

Adultery is an offence in Gaza and the West Bank. In the West Bank, Article 282 of the Penal Code criminalizes adultery.

Sexual orientation

Homosexual conduct between consenting adults is criminalized by the Criminal Code of 1936 in Gaza, with a penalty of up to ten years of imprisonment. The Penal Code 1960 in the West Bank has no similar prohibition.

PERSONAL STATUS LAWS

Minimum age of marriage

The Presidential Decree of 4 November 2019 raised the minimum age of marriage to 18 years in both the West Bank and the Gaza Strip, but allowing for exceptions to be made by the court and by the Chief Justice of Sharia courts. The amendment also includes Palestinian Christians.

Guardianship of children

Fathers are the sole guardians of children.

Male guardianship over women

Muslim women require consent of a wali (male guardian) to marry. There are some weak legal protections for women under guardianship. Women can seek permission from the court to marry if the guardian withholds consent without a legitimate reason.

Custody of children

After divorce the mother has custody up to a certain age, but automatically loses custody of her children if she remarries.

Marriage and divorce

Under the personal status laws for Muslims, a wife owes a duty of obedience to her husband. A husband can divorce by verbal repudiation (talaq). A wife has the right to divorce on specified grounds. She can also apply for a khul'a divorce without grounds if she forgoes financial rights. Khul'a divorce is permitted only in cases where the marriage has been registered but the marriage ceremony is yet to be conducted.

Inheritance

Sharia rules of inheritance apply to Muslims. Women have a right to inheritance, but in many cases receive less than men. Daughters receive half the share that sons receive.

Polygamy

Polygamy is permitted.

LABOUR LAWS

Right to equal pay for the same work as men

Under the Labour Law of 2000, discrimination in the workplace between men and women is prohibited.

Domestic workers

The Labour Law does not apply to domestic workers. A Council of Minister's decision provides some protections for domestic workers relating to the number of working hours, the right to rest, remuneration, post-contract rights, and compensation.

Dismissal for pregnancy

Under the Labour Law of 2000, employers are prohibited from dismissing a woman because she takes maternity leave.

Paid maternity leave

The Labour Law allows for maternity leave of 10 weeks, which is less than the ILO standard of 14 weeks.

Legal restrictions on women's work

Some legal restrictions exist on women's employment in certain industries that do not apply to men, such as mining.