



EXECUTIVE SUMMARY

Status Report on Community-based Alternative Dispute Resolution Mechanisms and Practices pertaining Violence Against Women and Girls

Terre des hommes – Lausanne Foundation (Tdh)
& Women's Affairs Technical Committee (WATC)

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"Gender Justice to End Violence Against Women and Girls"
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Introduction

Significant efforts have taken place to ensure that equality and access to justice as key components of the post-2015 international development agenda, subsequently confirmed by their inclusion in Goal 16 of the Sustainable Development Goals. This revives the longstanding debates around the role of customary and informal justice systems (also named, alternative conflict resolution) in programming justice sector reform, prompting questions about the best way to enhance collaboration with formal systems and, more importantly to ensure fulfillment of human rights.

Alternative means of conflict resolution are universally defined as different methods or processes used to resolve conflicts outside courts and official jurisdictions. They varied from mediation, conciliation, arbitration and others more tailor-made to customs and rules governing each given community. They have advantages in speeding the resolution, maintaining confidentiality, reducing financial costs, bringing justice with community practices, values and social norms and in providing flexibility in procedures and in the rules applied. However, it is to be acknowledge, that these mechanisms do not always offer enough safeguards, rights-based approaches or survivor-center focuses.

In Palestine, while access to justice for women and girls is largely unguaranteed, past interventions in country have focused only on the supply of formal justice side alone dedicated to researching the system, providing legal counseling as part of Gender-based Violence (GBV) multi-sectoral responses and building the capacity of formal justice actors. This often leaves unaddressed the traditional/informal justice mechanisms which deals with the majority of cases impacting women and girls and precisely those related to Violence Against Women and Girls (VAWG) highly under-reported to the formal institutions in charge.

The need for channels other than the formal judiciary ones has started to be developed, crystallized and classified according to the cases and situations which have more difficulties in accessing the official judiciary system, of which the most notable are cases of family conflicts and more concretely those specifically related to violence against women and girls, even when it may not be the most suitable channel for all of them from a gender-based lens. While Palestine counts with some legal frameworks that address the violence against women and girls, these are not comprehensive, law enforcement is weak and not very effective for the survivors and procedures that comply with the proper safeguards such as confidentiality, protection or speediness are not fully in place. Also, there are problems related to the implementation of judicial rulings, specifically those related to cases of violence against women and girls in specific areas such as Area C of the West Bank, Jerusalem and some suburbs given the lack of power of the Palestinian Authority there. According to a recent report published by UN WOMEN (2018), there is a noticeable increase in the number of women who face domestic violence and violence of all kinds in those areas. The

above-mentioned reasons, among others, led women and girls to have their cases dealt with at the community level rather than in the official justice system.

In order to contribute towards enhancing the female role within the justice system, the overall goal of the Project “Gender Justice to End Violence Against Women and Girls” is to activate a solid responsive gender justice to address violence against women and girls in Palestine. Accordingly, the project’s rationale works comprehensively and complementarily on reinforcing the supply of justice collaborating with key justice stakeholders (both, formal and informal), changing entrenched negative attitudes and prompting pro-gender community and local justice norms and community-based alternative dispute resolution mechanisms.

Specific activities within the Project will look at issues traditionally settled in the informal and customary justice system including domestic violence, early and forced marriage, divorce and alimony, inheritance rights for women, etc. Through the scheme set forth in the Project (identification, research and knowledge building, engagement, awareness, capacity building and advocacy) it is expected that customary and informal justice actors will gain a clearer understanding of women rights, VAWG and their multi-negative effect for the community as a whole. This will enable stakeholders to identify the traditional approach to settling VAWG cases as a key issue of community conflict resolution and will encourage traditional leaders to shift their support towards women and girls. In addition, this will progressively recognize the role of women as important justice actors in the settling of VAWG disputes. It is expected that in the medium-long term women and girls perceive more freedom to report cases without seeking permission from community leaders and more female have with a key role in VAWG community-based dispute resolution mechanism.

To this end the Status Report on Current Practices on Community-based Alternative Dispute Resolution mechanisms in VAWG cases has been developed.



Methodology

In addition to an extensive desk literature review including pertinent legal instruments, a participatory approach was used to prepare the Study Report. In-depth interviews were conducted with relevant official and non-official stakeholders. Civil society institutions, the Family Protection Police Units, Mukhtars and Islah men and women dealing with VAWG cases in the West Bank. Individual interviews and focus group discussions with women and girls who themselves had their cases dealt by informal justice actors were performed, including the West Bank, Jerusalem and the Gaza Strip.

A list of the study participants per geographical distribution could be found in the Annex Section.

Key findings

The majority of violence-related issues faced by women and girls are dealt with at the informal justice system level. In particular, as evidenced by the interviews and focus group discussions and the country literature review performed, the following are the most prevalent: engagement, family conflict/dispute, divorce, inheritance, alimony, child custody specifically for girls, domestic violence directed against women, both married (intimate partner violence) or unmarried (often perpetrated by the males relatives in the family) and honor killings. According to the findings, women (and girls through their mothers) resort to traditional methods of solving their family problems, particularly to clerics, national figures and reformers within the Tribal Judiciary and Popular Committees in the refugee camps. They also turn to civil society institutions that provide legal, psychological and social services, with a focus on those which offer family mediation. This is due to many reasons such as the shame and fear of scandal¹, the exposure and disfigurement of the family, the notion of stigma on the women and girls who disclose what it is considered largely in the Palestinian society as confidential (“private family issues” even when they involve violence), and the fear of family rejection, divorce and community isolation of the side of the women and girls in the event of their recourse to the official judiciary. On the other hand, the length of litigation in the formal judiciary system, unlike the speed in the customary one, the lack of appropriate protection services for women and girls once they report to the formal justice system, the financial costs that are lower in the customary system and the difficulties to indeed access the official judiciary facilities for those women that leave in occupied territories and that cannot afford going to the main cities. Finally, poor enforcement of the judicial decisions in the official system was also highlighted as a deterrence to resort to official justice pathways. All of these factors lead to a

1 Interviews with Bader Maraqa: Dean of Reform Committees in the West Bank and Chairman of Khalil Al-Rahman Association; and Fakhri Turkman: Chairman of the Committee for Tribal Reform in the West Bank.

high proportion of women and girls to seek to resolve their issues under the informal justice system, large and prevalent in country.

A significant number of women and girls resort to civil society institutions, specifically those that provide family mediation services through psychosocial and legal counseling, particularly in areas where those services exist nearby female’s dwellings. They also highlighted the mediation services provided by the Family Protection Unit at the Police as well the services offered by the District Attorney’s office. Those offer mediation with the approach to stop the violence perpetrated but at the same time leaving space for reconciliation and family restoration. For the most serious cases, this type of mediation may not be useful or protective enough and in any case does not fully overcome the stigma, fear or ultimately the willingness of many women and girls to feel totally protected from violent partners or male family members (through a “safe” divorce). Women and girls reported the need to improve those services with a view of immediately intervening to put an end of the violent situation and/or to impose effective restrictions on the abusing one. Likewise, this “mild” approach is sometimes applied by informal justice actors, which women and girls reported to be equally ineffective and unprotective for them.

It is worth noting that most of the cases where women and girls referred to institutions of justice (formal system) and security sector involved survivors with higher degree of education, financial means and personal independence and family support. Most are from cities and have received a degree of awareness on the role and achievement of institutions of the justice sector in the protection of the family from violence².

“Courts take their time and need money; sometimes we renounce of all our rights to terminate the violence we are subjected to on daily basis”, interviewed women conveyed.

Conclusions & Recommendations

The following main conclusions and recommendations are to be highlighted:

- Civil society organizations working in the field of legal, psychological and social counseling play a prominent role in family mediation in VAWG cases, where they also resort and coordinate with informal and formal justice actors. This makes it crucial to work on supporting those organizations, by specializing their services and their staff, establishing monitoring and follow-up mechanism, expanding their working areas and improving their level of coordination and influence with

2 An interview with Sumoud Aldameery: Religious District Attorney’s Office; Rawan Obeid from the Women’s Center for Legal, Psychological and Social Counseling; Attorney Scarlet: legal counselor and responsible for the violence files in Bethlehem Governorate; Abdelalim Daana: National reformer from Hebron area and Lieutenant Riad Alhaj: Director of Family Protection Department at Jenin Police.

official and non-official bodies. In addition, it is important that these organizations count with proper risk assessments tools to tailor-made services, specifically when family mediation is not the most appropriate way of combatting the violence suffered and much more protective systems need to be activated.

- Provision of family guidance services at the Shari'a Courts with sufficient expertise (mentors) of both sexes, legal counselors and the development of mechanisms and intervention plans for each case in a manner responsive to the specificities and needs of women and girls survivors of violence are required. These services should be linked with those of the civil society organizations (judicial and services referral mechanisms).
- The National Referral System for GBV survivors should be amended in order to incorporate the justice section in a manner that a gender justice approach is mainstreamed, and appropriate coordination mechanism are clearer and put in place.
- Specialized and tailor-made capacity building programmes at the level of Sharia Courts, Family Protection Unit at the Police, civil judges and prosecutors (including administrative staff of those institutions with contact with survivors at some point of the proceedings) on gender justice, types of GBV, legal and judicial principles and standards for VAWG cases, risk assessment tools, accountability mechanisms and the notion of survivor center-approach. These programmes should be practical, include blended-methodologies, and regional exchange experiences.
- The role of the Popular Committees and Tribal Judiciary should be reinforced specifically in Jerusalem, Area C, H2 and refugee camps where the Palestinian Authority has no control. Specialized and tailor-made capacity building programmes, with a particular focus on GBV legal protection laws aiming at providing with an in-depth understanding of the traditional justice system as it relates to the handling and settlement of GBV cases.
- Reinforcement of the role and coordination of female professional for the formal justice system, women playing a prominent role at the community level (informal system) in solving VAWG cases and/or supporting survivors and feminist organizations and movements within the country.
- Effective coordination mechanism (concrete, effective and functional) between formal and informal justice actors, particularly at the municipal and governorate levels.
- Formulation of plans, policies and sectoral and cross-sectoral strategies for alternative conflict resolution mechanisms in VAWG cases that should support the formal justice and that are specialized and responsive to the issues of women and girls.
- Large and focused legal and rights awareness information programmes for women and girls specifically, including safe avenues for support and professional, free and confidential legal counselling. Communication campaigns directed to the

society with well-trained journalist, justice professional and youth. Marginalized and remote areas should be reached and targeted in particular.

- The Family Protection Law should be approved as soon as possible. The draft law has established mechanisms for mediation at the level of the Attorney General. This would require subsequent work to develop bylaws, which can eventually open the possibility for formal and informal justice actors to collaborate (the latter trained and accredited as official mediators), with the correspondent accountability mechanism and safeguards for women's and girls' survivors of violence.

ANNEXES

STUDY'S PARTICIPANTS - INTERVIEWEES

Toulkarem Governorate

1. Officer Ahmad Hamdan / Family Protection Department/ Toulkarem Police.
2. Lieutenant Muntaser Bani Odeh / Family Protection Department/ Toulkarem Police.
3. Raida Awwad / Director of the Gender Unit, coordinator of the Tawasol Center and coordinator of the Women's Protection Network in Toulkarem Governorate.
4. Nadia Mahmoud / an employee at the Gender Unit / Toulkarem Governorate.
5. Advocate Adma' Odeh / Legal Counselor in Toulkarem Governorate.
6. Ali Odeh / director of Civil Peace Department at Toulkarem Governorate.

Jenin Governorate

1. Tamam Qannawi / Alnajda Society
2. Mirvat Abu Salah / Director of the Gender Unit at Jenin Governorate.
3. Lieutenant Riad Alhaj / Director of the Family Protection Department at Jenin Governorate.
4. Officer Dirar Alhaj / Deputy Director of the Family Protection Department at Jenin Police.
5. Iman Nazzal / the Women's Affairs Technical Committee Coordinator in Jenin Governorate.
6. Fakhri Turkman / Chairman of the Tribal Reconciliation Committee in Jenin Governorate.

Bethlehem and Hebron Governorates

1. Advocate Salwa Bannoura / Social and Legal Counseling Center in Bethlehem.
2. Advocate Scarlet / Legal counselor and responsible for the violence unit in Bethlehem Governorate.
3. Khawla AlAzraq / Director of the Social and Legal Counseling Center in Bethlehem.
4. Abdelalim Daana / National mediator in Hebron, a former prisoner and an instructor at the Polytechnic University in Hebron.

Jerusalem Governorate

1. Advocate Mohammad Hadieh / ACT for Alternative Dispute Resolution and Studies, Jerusalem.

Ramallah Governorate

1. Bader Maraqa / Dean of Reform in the West Bank and Chairman of Khalil Al-Rahman Association.
2. Advocate Rana Izmiqna / Legal Counselor in the Ramallah and Albireh Governorate.
3. Rawan Ubeid / Women's Center for Legal, Psychological and Social Counseling.
4. Sumnoud Adameery / Head of the Religious attorney General office.
5. Dr. Sulafa Sawalha / Director General of the Family Reconciliation and Counseling at the Chief of Justice Office.

Gaza Strip

1. Zeinab Alghneimy / Center for Women's Legal Researches and Consulting (CWLRC).
2. Amal Siam / Women's Affairs Center.
3. Reem Farama / Aysheh Society Director.
4. Mukhtara Rida Hassouneh.

Additionally, 11 women and girls were interviewed individually coming from different governorates mentioned above.

Focus Groups Discussions

1. A group of 8 women aged 25-45 from Beit Fajjar in Bethlehem Governorate.
2. A group of 12 women aged 19-50 from Atteel in Toulkarem Governorate.
3. A group of 21 women ages 21-55 from different areas in Jenin Governorate.



QUESTIONNAIRES

Questions for women and girls

1. To whom do you resort for justice solutions in case you are subjected to violence? And why?
2. When you have a personal problem, what kind of system do you prefer to resort to? And why?
3. Do you think informal/customary/tribal justice are fair to women and girls, maintain confidentiality, privacy and guarantee the desired outcomes of gender justice? And how? What are the differences, according to your experience and knowledge compared to the official justice system?
4. Does the presence of female in the informal informal/customary/tribal justice system encourage women and girls to resort that system to solve their problems? And why? Would the same applied to the official justice system?

Questions to members of Informal/Customary/Tribal Justice system

1. When do women and girls resort to you to solve conflicts they are part of?
2. Do women and girls approach you by their own choice?
3. Which women and girls come to you? (According to age, paid work, level of education...etc.)
4. What are the types of VAWG conflicts that you are involved in resolving? And how?
5. Do you sometimes ask a lawyer or a official judge to give you a legal opinion on the subject of the conflict? Is there a continued communication between you and the formal justice actors in the judicial and religious courts? How and in which cases? How do you evaluate this cooperation or the lack of?
6. Do you use Personal Status Law it in your field of work pertaining to VAWG issues?
7. Which rules and values do you take into consideration in your judgment on VAWG cases?
8. What qualifications should a tribal judge or a member of the popular committees have (in terms of knowledge, skills and direction)?
9. Do you get paid when working on resolving conflicts? And who pays?
10. Is there a need for training on the standards of responding to VAWG cases in your field of work? On which topics specifically according to your opinion?
11. What is the percentage of your success in solving VAWG conflicts? What it is consider a success according to you? Did it happen that women and girls resorted to other means after you gave your verdict? Why? What are these cases?

Questions to Governmental and Non-governmental Organizations

1. What is your role as governmental and civil society organizations in resolving VAWG cases?
2. Do you consult with informal/customary/tribal actors to resolve VAWG-related disputes? What is the nature of cases?
3. Do you refer some cases to the formal legal system? When do you do that? What are such cases? And why? And to the informal system? What cases and why?
4. How many cases do you consider annually? What percentage of cases relate to VAWG? And what is the rate of success? What it is considered a successful case according to you?
5. Is there coordination and cooperation with gender specialized institutions when you deal with VAWG cases?
6. Have you ever received specialized training on gender justice broadly speaking? What are you needs in terms of training (if you feel it is needed)?
7. Do you think that women resorting to informal/customary/tribal justice system to resolve VAWG rather than to the official justice system? Why?
8. Are VAWG survivors followed up especially after the cases of violence are dismissed?
9. What do you think are the main gaps in the formal justice system pertaining VAWG cases and how to overcome them according to you?



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