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**Поощрение и защита всех прав человека, гражданских, политических, экономических, социальных и культурных прав, включая право на развитие**

### **Доклад Специального докладчика по вопросу о насилии в отношении женщин, его причинах и последствиях о ее поездке в Израиль\***

#### **Записка секретариата**

Секретариат имеет честь препроводить Совету по правам человека доклад Специального докладчика по вопросу о насилии в отношении женщин, его причинах и последствиях о ее поездке в Израиль с 12 по 22 сентября 2016 года<sup>1</sup>.

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\* Настоящий документ был представлен после истечения установленного срока в связи с необходимостью включения в него самой последней информации.

<sup>1</sup> Мандатарий также представила отдельный доклад, тесно связанный с этим докладом. См. A/HRC/35/30/Add.2.

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## **Report of the Special Rapporteur on violence against women, its causes and consequences on her mission to Israel\*\***

### Contents

	<i>Page</i>
I. Introduction .....	3
II. General context .....	3
III. Incorporation of the international framework for the elimination of violence against women .....	5
A. International framework .....	5
B. Observations of United Nations monitoring mechanisms .....	6
IV. Manifestations of violence against women, its causes and consequences, including under the occupation and the blockade .....	6
V. State responses and measures to address violence against women .....	15
A. Legislative framework .....	15
B. Policy framework.....	16
C. Institutional framework.....	18
VI. Conclusions and recommendations .....	18

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\*\* Circulated in the language of submission only.

## I. Introduction

1. At the invitation of the Government of Israel, the Special Rapporteur on violence against women, its causes and consequences, Dubravka šimonović, visited Israel in September 2016. The present report is closely interlinked with document A/HRC/35/30/Add.2, including some common content with regard to the general context.

2. The Special Rapporteur expresses her sincere gratitude to the Government of Israel for its full cooperation. The mandate holder visited Jerusalem, Tel Aviv, Beersheba, Haifa and Nazareth in Israel, and Ramallah, Bethlehem, Hebron, Jericho, East Jerusalem and the Gaza Strip in the Occupied Palestinian Territory. She met with the Deputy Minister, the Senior Deputy Director General, the Deputy Director General of the Division for International Organizations and the United Nations and the Director of the human rights department at the Ministry of Foreign Affairs; the Directors General and representatives of the Ministry of Justice and the Ministry of Religious Services; the Directors General of the Ministry for Social Equality and the Ministry of Social Affairs and Social Services; representatives of the Ministry of the Interior, the Ministry of Public Security, the Ministry of Health and the police; the Head of the National Security Council; a judge of the Supreme Court of Israel; the President of the District Court of Family Affairs; the Chair of the Subcommittee on Combating Trafficking in Women and Prostitution; the Chair of the national commission of inquiry on cyberviolence; the State Comptroller and Ombudsman; and representatives of the Coordinator of Government Activities in the Territories, both at the Kalandia checkpoint and the Erez crossing point.

3. She also held consultations with civil society organizations, Bedouin women, academics and representatives of United Nations agencies. She visited two shelters and met with staff working at the Regional Ambulatory Treatment Center for Domestic Abuse Prevention Care and the Golda Meir Mount Carmel International Training Center. She would like to thank in particular the women survivors of violence who shared their experiences with her throughout the visit.

4. The Special Rapporteur expresses her gratitude to the Office of the United Nations High Commissioner for Refugees and other United Nations agencies and interlocutors involved in the organization of her visit.

5. She looks forward to a fruitful dialogue with the Government and other stakeholders on the implementation of the action-oriented recommendations contained in the present report.

## II. General context

6. The visit took place in a general context of protracted conflict and prolonged occupation, characterized by frequent incidents of violence and the absence of any prospect of peace, which creates a growing despair and hopelessness among the population. This complicated de jure and de facto situation provides the backdrop for assessing the different forms of violence against women, its causes and consequences in public and private life. This context requires the joint application of international human rights law and principles of international humanitarian law to all persons under the State's jurisdiction or territory under its effective control. International human rights law, in particular the Convention on the Elimination of All Forms of Discrimination against Women, provides a broad framework for eliminating violence against women and its causes, including violence that is based on inequalities and discrimination against women in war, during peacetime and in conflict situations, while humanitarian law provides a specific framework to address some specific conflict-related forms of violence against women.

7. The Committee on the Elimination of Discrimination against Women has consistently held the view that the Convention and humanitarian law are applicable to all persons under

the jurisdiction or effective control of Israel,<sup>2</sup> in line with the jurisprudence of the International Court of Justice<sup>3</sup> and the positions of other treaty bodies, such as the Committee on the Elimination of Racial Discrimination,<sup>4</sup> the Committee on Economic, Social and Cultural Rights<sup>5</sup> and the Human Rights Committee.<sup>6</sup> The Special Rapporteur shares those positions.

8. General Assembly resolution 67/19 and the accession of the State of Palestine to a number of international human rights instruments have not altered the obligations of Israel under human rights law and humanitarian law vis-à-vis the territory under its effective control and the people under its jurisdiction.

9. Following her 2004 visit to the Occupied Palestinian Territory, the former Special Rapporteur on violence against women highlighted a number of concerns related to violence against women that remain unaddressed and unresolved.<sup>7</sup> Additionally, various United Nations bodies have expressed concern about the human rights, humanitarian and security issues that occupation brings, including with regard to the situation of women.

10. While recognizing the imperatives related to security and stability in the region, the Special Rapporteur highlights the clear linkage between the prolonged occupation and violence against women, and she notes, like her predecessor, that the occupation does not exonerate the State of Palestine from its due human rights obligation to prevent, investigate, punish and provide remedies for acts of gender-based violence in the areas and for persons under its jurisdiction or effective control. The authorities in Gaza also bear human rights obligations, given their exercise of government-like functions and territorial control.

11. Under the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II Accords) of 1995, the West Bank was divided into Areas A, B and C, each having a different status of governance. In Area A, representing 18 per cent of the territory of the West Bank, the State of Palestine exercises control over security and civil matters. Area B is administered by the Palestinian Authority, which has control over civil matters, while the Israeli authorities, jointly with the Palestinian Authority, have control over security. In Area C, which constitutes 62 per cent of the West Bank, the Israeli authorities have full control over security, planning and construction.<sup>8</sup> Within Area C, Palestinians have limited access to water, electricity, education and other State services.

12. The city of Hebron is divided into two zones: H1, under the control of the Palestinian Authority; and H2, representing 20 per cent of Hebron, over which Israel has held all authority and responsibilities for internal security and public order since 1997, in accordance with the Oslo II Accords.<sup>9</sup>

13. In East Jerusalem,<sup>10</sup> Israeli law provides Palestinian residents with the status of permanent residents of Israel, treating them as immigrants in the Occupied Palestinian Territory.<sup>11</sup> While providing such residents with more freedom of movement in comparison with other Palestinians, it discriminates against them in comparison with Jewish persons who immigrate to Israel. The blockade of the Gaza Strip has led to a critical socioeconomic and humanitarian situation for Palestinians residing there, particularly women. There is limited

<sup>2</sup> CEDAW/C/ISR/CO/3, para. 23, and CEDAW/C/ISR/CO/5, para.12; see also general recommendations No. 28 (2010) on the core obligations of States parties under article 2 of the Convention, para. 12, and No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations, para. 8.

<sup>3</sup> *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, I.C.J. Reports 2004*, p. 136 (in particular pp. 171–181), and *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), Judgment, I.C.J. Reports 2005*, para. 216.

<sup>4</sup> See CERD/C/304/Add.45, CERD/C/ISR/CO/13 and CERD/C/ISR/CO/14-16.

<sup>5</sup> See E/C.12/1/Add.69, E/C.12/1/Add.90 and E/C.12/ISR/CO/3.

<sup>6</sup> See CCPR/C/ISR/CO/3, CCPR/CO/78/ISR, CCPR/C/79/Add.93 and CCPR/C/ISR/CO/4.

<sup>7</sup> See E/CN.4/2005/72/Add.4.

<sup>8</sup> See [www.ochaopt.org/location/area-c](http://www.ochaopt.org/location/area-c).

<sup>9</sup> A/71/355, paras. 25–26.

<sup>10</sup> See Security Council resolution 478 (1980).

<sup>11</sup> See A/66/356.

access to water, housing, land and property, especially for widowed women, as well as to employment opportunities, higher education and health care.<sup>12</sup>

14. Since the events of September and October 2015, the security situation in Israel has continued to deteriorate due to an increase in violence and clashes between Palestinians and Israelis.

15. The complicated and conflicting political and legal regimes provide an equally or even more complicated and conflicting legal context for victims of violence against women, in which different authorities that share jurisdiction over security and other issues also share a complex due diligence responsibility to prevent violence against women, provide services for victims and punish perpetrators.

16. In this context of Israeli-Palestinian conflict, violence against women is a phenomenon that occurs on both sides of the divide. The Special Rapporteur looks at violence against women against this backdrop and with the conviction that combating and preventing violence against women will ultimately contribute to each society's growth, bridge divided communities and contribute to peace by removing obstacles to the full participation of women in the peace process.

### **III. Incorporation of the international framework for the elimination of violence against women**

#### **A. International framework**

17. Israel ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1991, with reservations to article 7 (b), which relates to equality in political participation, and to article 16, on equality in all matters relating to marriage and family relations. The reservation to article 16, which is impermissible and contrary to the object and purpose of the Convention and seriously impedes its whole implementation, allows discrimination against women and blocks the application of the principle of equality between women and men in all matters relating to marriage and the family. Additional obstacles to implementation include inadequate knowledge about the Convention in society,<sup>13</sup> including among all branches of government, and the lack of ratification of the Optional Protocol to the Convention.

18. Israel is party to several other core human rights instruments and some optional protocols thereto,<sup>14</sup> and the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. It is also a party to the Convention relating to the Status of Refugees, the Convention relating to the Status of Stateless Persons, the Geneva Conventions relating to the protection of victims of international armed conflicts and the Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the adoption of an additional distinctive emblem. Israel is a signatory to the Rome Statute of the International Criminal Court but in 2000 expressed its intention not to become a party.

19. Israel has a dualist approach for the incorporation of international treaties into domestic law. Except for international customary law, the incorporation requires specific legislation for the treaties to be applicable. The Supreme Court has clarified that "customary and treaty law affect Israeli law and therefore human rights treaties constitute an important tool for the interpretation of national legislation, and serve to further enhance and entrench international human rights norms in the domestic sphere".<sup>15</sup>

<sup>12</sup> See E/CN.6/2016/6.

<sup>13</sup> CEDAW/C/ISR/CO/5, para. 16.

<sup>14</sup> See <https://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&lang=en>.

<sup>15</sup> Submission from the Ruth and Emanuel Rackman Center for the Advancement of the Status of Women to the Committee on the Elimination of Discrimination against Women. Available from [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1074&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1074&Lang=en).

20. The Special Rapporteur commends the current work towards accession by Israel to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention). Ratification of that treaty would be a significant and important step in combating violence against women.

21. In 2005, Israel enacted the Women's Equal Rights Law (amendment No. 4) based on principles of Security Council resolution 1325 (2000), which mandated the inclusion of diverse women in public bodies established by the Government on issues of national importance, including peace negotiations. The Special Rapporteur regrets, however, that at the time of her visit, no national action plan on the implementation of resolution 1325 (2000) had been adopted.

## **B. Observations of United Nations monitoring mechanisms**

22. The Special Rapporteur notes with concern the lack of implementation by Israel of the recommendations issued by the Committee on the Elimination of Discrimination against Women in 2011.<sup>16</sup> Many of the concerns expressed by the Committee remained valid at the time of the visit and are followed up in the mandate holder's recommendations. Similarly, she notes with concern the lack of implementation by Israel of the recommendations of other treaty bodies relevant to the present report, including on the practice of torture and ill-treatment of Palestinian children arrested by the military police;<sup>17</sup> the legality and use of the defence of necessity as a justification of torture; a lack of effective accountability for, and protection by Israeli authorities from, violence perpetrated by Israeli settlers;<sup>18</sup> and the unequal treatment of Bedouin women and girls,<sup>19</sup> among others.

## **IV. Manifestations of violence against women, its causes and consequences, including under the occupation and the blockade**

23. Israel society is very diverse both in terms of ethnic groups and religions. Jews are the largest ethnic group, composing 75.5 per cent of the population. Arabs comprise about 20.2 per cent of the population, with the remaining percentage consisting of smaller minority groups, including non-Arab Christians and Circassians. There are also over 250,000 Bedouins in more than 30 tribes living in Israel.<sup>20</sup>

24. The manifestations of violence against women need to be understood in the context of a complex political situation and in the light of the diversity of Israeli society, with some of its sectors and specific groups or women, including minorities, facing accrued and multiple forms of discrimination.

25. Israel has a very diverse religious landscape, with Judaism being the most practised religion. Within the Arab population, the major religions are Islam, Christianity or Druze. Different religious laws govern personal status as, since its founding, Israel has left matters of marriage and divorce in the jurisdiction of religious courts. However, there has been some recourse to civil courts on some aspects related to divorce.

26. The Special Rapporteur believes that patriarchal attitudes and gender stereotypes are deeply entrenched in society. In the context of conflict and occupation, these attitudes and stereotypes are tolerated and have rigidified, constituting root causes of gender-based violence against women. Below she analyses those manifestations that were discussed during her visit, while recognizing that these are not exhaustive.

<sup>16</sup> See CEDAW/C/ISR/CO/5.

<sup>17</sup> See CRC/C/ISR/CO/2-4.

<sup>18</sup> See CCPR/C/ISR/CO/4.

<sup>19</sup> See E/C.12/ISR/CO/3.

<sup>20</sup> See [www.cija.ca/resource/israel-the-basics/demographics-of-israel/](http://www.cija.ca/resource/israel-the-basics/demographics-of-israel/).

## Femicide

27. The Special Rapporteur received data from various sources in relation to intimate partner and family-related femicides, or gender-related killings of women. It was later clarified in a written submission from the Government that, in 2015, 11 women had been murdered by their partners and 6 had been killed by other family members. In the past 15 years, 300 women were killed by their domestic partners in Israel.<sup>21</sup> While the written information received neither includes non-family-related femicides nor indicates any breakdown by ethnicity, Palestinian women citizens of Israel, including Bedouin women, are overrepresented among the victims of femicide. Some of these killings are either by a husband or another member of the family to “cleanse the family’s reputation”. It was reported that investigations were often closed due to a lack of evidence and that those prosecuted received light sentences.

28. As a consequence of the Israeli-Palestinian conflict, and in the broader context of national security, the use of armed private police services has increased, resulting in an increase in murders of women by security guards.<sup>22</sup> From 2002 to 2013, firearms of off-duty security guards were used to kill at least 33 persons, including 18 women killed at home.<sup>23</sup> In 2008, the Firearms Law was amended to require employees to store their firearms at work.<sup>24</sup> This amendment entered into force in 2013 and, as a result, in 2014, no murder was committed with the firearm of an off-duty security guard.<sup>25</sup> However, the law was amended again, first temporarily through an executive order in November 2014 following an attack on a synagogue in Jerusalem and, since March 2016, through an amendment to the Firearms Law allowing off-duty security employees to carry weapons home for security reasons. While noting that the latter amendment stipulates that it does not apply to a person who has a criminal record involving a violent crime, including domestic violence, the Special Rapporteur is concerned that this amendment may result in increased killings of women.

## Domestic violence

29. Between 2014 and 2015, about 200,000 women were victims of domestic violence.<sup>26</sup> Yet, according to the Government, only 17,939 cases of domestic violence were opened in 2014, of which 80 per cent were filed by women.<sup>27</sup> This shows a serious underreporting by women, due to, inter alia, the perception that domestic violence is still considered to be a private matter and social and cultural pressure not to disclose it, in particular among women from the Jewish Orthodox, Palestinian, Bedouin and Druze communities, and a lack of trust in the enforcement authorities.

30. Factors that reinforce the occurrence of violence include patriarchal attitudes; low awareness among women of their rights; unemployment; and the occurrence of early marriage and the persistence of polygamy, in particular in minority communities.

## Sexual violence, including rape and sexual harassment

31. The rates of sexual violence, including rape, are still high. In 2013, more than 40,000 calls reporting sexual violence were submitted to sexual assault centres: 41 per cent involved rape, including gang rape, sodomy and attempted rape; 26 per cent involved incest; and 12 per cent were related to harassment in the workplace.<sup>28</sup> Of the sexual assaults reported in the calls, 28 per cent were committed by a family member and 11 per cent by a boyfriend or spouse.<sup>29</sup> The Special Rapporteur expresses concern that, according to statistics provided by

<sup>21</sup> See [www.wizo.org/wizo-news/news/eliminating-violence-against-women-2015.html](http://www.wizo.org/wizo-news/news/eliminating-violence-against-women-2015.html).

<sup>22</sup> See [www.academia.edu/29550563/The\\_Gun\\_on\\_the\\_Kitchen\\_Table\\_The\\_Sexist\\_Subtext\\_of\\_Private\\_Policing\\_in\\_Israel](http://www.academia.edu/29550563/The_Gun_on_the_Kitchen_Table_The_Sexist_Subtext_of_Private_Policing_in_Israel).

<sup>23</sup> See <http://isha2isha.com/feminism-and-weapons/>.

<sup>24</sup> See Rela Mazali, “Speaking of guns: launching gun control discourse and disarming security guards in a militarized society”, *International Feminist Journal of Politics*, vol. 18, No. 2 (2016).

<sup>25</sup> Ibid.

<sup>26</sup> See <http://www.wizo.org/wizo-news/news/eliminating-violence-against-women-2015.html>.

<sup>27</sup> Submission from the Government.

<sup>28</sup> See <http://www.1202.org.il/en/union/info/statistics/arcci-statistics>.

<sup>29</sup> Ibid.

the centres, only 15 per cent of the incidents reported to them were reported to the police,<sup>30</sup> perpetuating a situation of impunity for perpetrators.

32. The Special Rapporteur is concerned that, despite some progress, including a 1998 law banning sexual harassment, as well as a societal attitude change, sexual harassment is still common in Israeli society. According to one survey, in 2015 98 per cent of the victims of sexual harassment did not report the crime to the police.<sup>31</sup> In 2013, 28 per cent of adult callers to rape centres called concerning sexual harassment in the workplace. During the same period, about 94 per cent of those calling to report sexual assault in the workplace were women. Only one out of six persons reported cases of sexual harassment or sexual violence in the workplace to the police.<sup>32</sup> The Special Rapporteur is concerned about sexual harassment in the police and in political life, as highlighted by recent high profile cases. According to the Israel Defense Forces, in 2013 there were 957 reports of sexual assault involving the Forces. In 91 per cent of those cases the victim was a woman and for 61 per cent of the cases no complaint was submitted.<sup>33</sup>

### Violence exerted during divorce proceedings

33. Marriages and divorces are conducted in accordance with the personal status laws applying to the parties. Hence, there is no civil marriage and divorce in Israel for couples belonging to the same religious communities<sup>34</sup> and these issues are adjudicated within the different religious courts. Paragraphs 1 and 2 of the 1953 Rabbinical Courts Jurisdiction (Marriage and Divorce) Law cede jurisdiction over marriage to a sexually discriminatory religious law, which provides that divorce depends solely on the will of the husband by transmitting an official divorce document (the *get*) to his wife. While both husband and wife can ask for a divorce, and both parties must agree to the divorce, the law discriminates against women. For example, without a valid divorce, under religious law a woman is forbidden to have relations with any other man, and any children she might have with another man are considered illegitimate and are later prevented from marrying in a Jewish marriage ceremony. On the other hand, a married man is completely free to have relations with another woman and have children with her with no legal ramifications. These discriminatory provisions create a power gap that allows a husband to refuse to grant a divorce unless his wife concedes to his demands, which may include giving up property rights or rights with respect to their children. In some cases this leads to violence by husbands against their wives during divorce proceedings, known as “*get* abuse”.

34. The Special Rapporteur is concerned about this type of discrimination and violence and notes that women victims of domestic violence requesting divorce are more likely to suffer from *get* abuse.

35. The rabbinical courts can impose various sanctions on a refusing spouse in divorce cases through the civil enforcement powers provided by the Sanctions Act, such as different types of restraining orders, revocation of a driver’s licence, restrictions on bank accounts, a stay of exit order, imprisonment and more. The Special Rapporteur welcomes some recent instances where Rabbinical courts have made use of different sanctions to exert pressure on recalcitrant husbands to secure their consent, but finds they still do not make sufficient use of such authority. Furthermore, she is concerned that such courts reserve the right to revoke a woman’s divorce retroactively if she violates one of the clauses of the divorce agreement. This situation of “retroactive marriage” is legally unprecedented and leaves women in such situations in a state of extreme vulnerability.

36. The sharia courts also discriminate against women: divorce proceedings are more difficult for women as compared with men; women who remarry after widowhood or divorce

<sup>30</sup> Ibid.

<sup>31</sup> See United States of America, Department of State, *Country Reports on Human Rights Practices for 2015: Israel and the Occupied Territories*. Available from <https://2009-2017.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

<sup>32</sup> See <http://www.1202.org.il/en/union/info/statistics/arcci-statistics>.

<sup>33</sup> Ibid.

<sup>34</sup> Civil divorces are made possible for couples belonging to different religious communities or those of no religious affiliation through the family courts.

may lose custody of their children; widows are only entitled to half of the inheritance from their husbands; and polygamy, although prohibited, is not prevented in practice in some communities.

### **Child and forced marriage**

37. The Special Rapporteur is concerned about the number of child and forced marriages that are still performed, due to, *inter alia*, religious laws that govern such marriages, low public awareness, lack of education among girls and their parents and poverty. While acknowledging the 2013 amendment of the Marriage Age Law, in which the minimum age for girls to marry was raised from 17 to 18, the Special Rapporteur expresses concern that this law is being circumvented by the simple expedient of not reporting marriages to the authorities before the spouses reach 18 years of age.

38. In 2014, 416 cases of child marriage were reported to the Ministry of the Interior, but only 37 of those cases were investigated.<sup>35</sup> Out of the cases investigated, the police recommended six indictments, but all six cases were dropped by the State Prosecutor.<sup>36</sup> Following recurrent reports of early marriage, a meeting was held with the qadis of the sharia courts and representatives of the Ministry of Justice, the police and the State Attorney's Office to formulate a reporting procedure on polygamy and early marriage.

### **Polygamy**

39. Despite the prohibition of polygamy in the Penal Law since 1977, which made it punishable by up to five years in prison and a monetary fine, the practice persists in Bedouin communities. According to the Knesset, in 2013, 30 per cent of the members of Bedouin communities in the Negev were involved in a polygamous relationship.<sup>37</sup>

40. Women in polygamous relationships are completely dependent on their husbands, exposing them to domestic violence and sexual assault. The first wife is unlikely to ask for divorce, due to the cultural shame, the fear of losing her children<sup>38</sup> and the fear of retribution or isolation from the community itself.<sup>39</sup>

### **Groups of women particularly at risk**

41. Specific groups of women, including Palestinian women citizens of Israel, Bedouin women, asylum seekers, victims of trafficking and women belonging to other minority communities, face accrued and multiple forms of discrimination and a heightened risk of violence. They are also more at risk of committing suicide to escape situations of violence.

42. Demographic and socioeconomic indicators suggest that entrenched gender discrimination and inequalities persist and continue to hinder Palestinian women and girls' enjoyment of human rights and fundamental freedoms.<sup>40</sup>

43. Bedouin families live mainly in the Negev, either in recognized (66 per cent) or unrecognized communities (44 per cent).<sup>41</sup> Communities are labelled as unrecognized if they were unable to obtain building permits or plans for housing. The low rate of issuance of building permits often forces them to build their houses "illegally" and live in inadequate, temporary structures. They are at risk of forced eviction and home demolition, a situation

<sup>35</sup> Ibid.

<sup>36</sup> Ibid.

<sup>37</sup> See [www.timesofisrael.com/the-sorry-plight-of-bedouin-women-trapped-by-polygamy/](http://www.timesofisrael.com/the-sorry-plight-of-bedouin-women-trapped-by-polygamy/).

<sup>38</sup> Sharia courts use two conditions that, if fulfilled, deny the mother custody of her children following a divorce: if the mother marries another man or if the children are older than 7 years for a boy and 9 years for a girl.

<sup>39</sup> Adv. Insaf Abu-Shared, "Report on Violence against Bedouin Women", Itach-Maaki Women Lawyers for Social Justice, 2013.

<sup>40</sup> See <https://reliefweb.int/sites/reliefweb.int/files/resources/social-economic-situation-palestinian-women-2016-2018-english.pdf>.

<sup>41</sup> Ibid.

that particularly affects women. One study showed that Bedouin women's fears focused on the threat of physical forced displacement.<sup>42</sup>

44. In Bedouin communities gender-based violence is pervasive and accepted as a way of life, particularly in polygamous families.<sup>43</sup> Almost 97 per cent of the Bedouin women questioned in a survey described acts of repeated violence, 79 per cent reported being attacked by one spouse, 90 per cent indicated being victims of multiple types of violence, including physical, psychological, economic and sexual violence, and 95 per cent of the women who suffered from violence expressed a lack of willingness to enter a shelter for battered women, because of shame and fear of the community's reaction.<sup>44</sup> Another study showed that Bedouin women mistrust law enforcement institutions, including the police, government institutions or other organizations,<sup>45</sup> and more than half of the women interviewed felt that there were no services available for Bedouin women survivors of violence. These barriers, coupled with the fact that Bedouin women have the lowest socioeconomic status in Israel, prevent Bedouin women from escaping situations of violence.

45. The Special Rapporteur met with some women asylum seekers who had allegedly fled their countries out of fear of being killed in the name of "honour", domestic violence, forced marriages and other forms of gender-based violence, but whose claims for refugee protection based on gender grounds had been declined, the State not having recognized their gender-related forms of persecution as legitimate grounds for asylum.

46. In April 2016, the population of asylum seekers in Israel, mostly from Eritrea and the Sudan,<sup>46</sup> was estimated at 42,000,<sup>47</sup> of which about 7,000 were women. While recognized refugees receive a temporary residence visa allowing them access to all services provided to Israeli residents and citizens, with the exception of the right to vote, asylum seekers do not receive a resident visa but a "provisional release from detention" visa, which is valid for only a few months, depending on nationality. Asylum-seeking women in Israel are particularly vulnerable to domestic violence given the absence of family and community support they would otherwise enjoy in their country of origin. Indeed, without official work permits, such women suffer from a chronic lack of employment security and, with no access to welfare services and benefits, they must rely on their spouses and communities for support, thus making them more vulnerable to exploitation and abuse, including sexual exploitation.

47. Women asylum seekers who are victims of domestic violence face a number of challenges. For example, they do not receive free legal aid in domestic violence proceedings despite the fact that such support is not excluded under the 1972 Law on Legal Aid. This issue is currently being examined by the Supreme Court. Furthermore, emergency shelters are often inaccessible for such women, as there are not sufficient places, the shelters generally do not have interpreters and the treatment is not necessarily adapted to social and cultural differences. Women asylum seekers are also not entitled to any allowances while in shelters under the 1995 National Social Security Law.

48. The Special Rapporteur was further informed of inadequacies in the legal framework for protecting women asylum seekers who are victims of trafficking. The Anti-Infiltration Law does not expressly exempt victims of trafficking from detention. Moreover, the one-year rehabilitation programme, including shelter, medical and psychosocial services and a B-1 working visa, is insufficient for asylum seekers who cannot leave Israel and require

<sup>42</sup> See [www.hhrjournal.org/2014/07/depressive-symptoms-among-arab-bedouin-women-whose-houses-are-under-threat-of-demolition-in-southern-israel-a-right-to-housing-issue/](http://www.hhrjournal.org/2014/07/depressive-symptoms-among-arab-bedouin-women-whose-houses-are-under-threat-of-demolition-in-southern-israel-a-right-to-housing-issue/).

<sup>43</sup> Submission from Itach-Maaki Women Lawyers for Social Justice.

<sup>44</sup> Adv. Insaf Abu-Shared, "Report on Violence against Bedouin Women".

<sup>45</sup> Submission from the Hotline for Refugees and Migrants to the Committee on the Elimination of Discrimination against Women. Available from [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1074&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1074&Lang=en).

<sup>46</sup> With other notable groups of asylum seekers originating from Georgia, Ukraine, Ethiopia, Sri Lanka, Nigeria and Ghana.

<sup>47</sup> See [www.gov.il/BlobFolder/reports/foreign\\_workers\\_report\\_q1\\_2016/he/Q1\\_2016\\_0.pdf](http://www.gov.il/BlobFolder/reports/foreign_workers_report_q1_2016/he/Q1_2016_0.pdf) (in Hebrew).

longer-term rehabilitation in the light of the torture and inhuman or degrading treatment they have experienced.

49. A further gap in the protection of victims of trafficking is the lack of a proper screening mechanism for their identification before they are detained. Another significant gap is the lack of shelter and rehabilitation services for victims of torture, in particular in the context of the Eritrean asylum seekers who fall victim to torture on their route through the Sinai to Israel.

50. It was reported that migrant women, including women being considered for naturalization who are victims of domestic violence, fear to report such cases due to threats of detention and deportation. They therefore are likely to remain trapped in violent and abusive situations.<sup>48</sup> Despite the introduction in 2007 of some level of protection for abused migrant women through the application of humanitarian protection, the conditions for such protection to be granted are too stringent. In addition, the abusive husband or partner retains control over his wife or partner as he can refuse to attend a hearing at the Ministry of Interior to document her two years of residency.

51. The Special Rapporteur is also concerned about the increase in violence targeting women's rights activists and the increased criminalization of protests. In this connection, she was informed about a civil society initiative advocating for an amendment to the Sexual Harassment Law to prevent police officers from treating persons detained or arrested in a disrespectful manner.<sup>49</sup>

52. There is ongoing pressure on human rights defenders belonging either to Palestinian or Israeli civil society,<sup>50</sup> including women human rights defenders. There are numerous cases against women addressed to the special procedure mandate holders that indicate a lack of protection,<sup>51</sup> an emblematic case being the arrest of Khalida Jarrar by Israeli authorities in 2015. Ms. Jarrar, with whom the Special Rapporteur met, is a Palestinian Member of Parliament, a human rights activist and feminist, who was sentenced to 15 months in jail for incitement and involvement in terror.<sup>52</sup>

### **Women and girls in detention**

53. In 2015, 106 Palestinian women and girls were arrested by Israeli forces, representing an increase of about 70 per cent in comparison with 2013.<sup>53</sup> In August 2016, it was estimated that 60 Palestinian women, including 15 girl children and 2 female administrative detainees, were held in Israeli prisons and detention centres.<sup>54</sup> The Special Rapporteur is concerned at the use of administrative detention legislation, including for women and children, that allows the indefinite detention of detainees on secret information without telling them of the charges against them or giving them the chance to stand trial.

54. Palestinian women and girls are regularly arrested off the streets, at Israeli checkpoints and during violent night raids on their homes during military incursions, during which destruction of household items and property damage takes place. Upon arrival at an interrogation or detention centre, female Palestinian detainees are routinely not informed of their rights and the reasons for their detention. Often they are denied attorney access and kept for several days or months under interrogation.<sup>55</sup> The Special Rapporteur met with former women detainees whose experiences confirmed such information. They indicated having been victims of torture and ill-treatment while in detention. Beatings, insults, threats and sexual harassment were reported to be common practices, as well as intrusive body searches, which often occurred before and after court hearings or during the night as punitive measures.

<sup>48</sup> Submission from the Hotline for Refugees and Migrants.

<sup>49</sup> Submission from Achioti.

<sup>50</sup> See A/HRC/34/70.

<sup>51</sup> For example, communications ISR 3/2016, ISR 8/2016, ISR 12/2016 and ISR 13/2012.

<sup>52</sup> See communication ISR 3/2016.

<sup>53</sup> Submission from Addameer Prisoner Support and Human Rights Association.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

55. The Special Rapporteur is concerned at the overall lack of access to adequate medical services and long delays in providing substandard medical treatments to female detainees. Specialized medical care, such as gynaecological services, is generally unavailable. Another matter of concern is the absence of trained Arabic-speaking female medical specialists.<sup>56</sup>

### Access to justice

56. Several communities, in particular Palestinian citizens of Israel and Bedouin women, fear and do not trust the police, which prevents them from filing complaints about violence perpetrated against them. Women in these communities also fear retaliation, including death threats and stigmatization from their families and communities if they file a complaint, coupled with the risk of losing economic support for themselves and their children.<sup>57</sup> She was informed that for cases relating to violence against Palestinian women citizens of Israel, 89 per cent<sup>58</sup> of such cases were closed without prosecution.

57. Victims of gender-based violence living under occupation face an acute lack of access to justice. In Area C, the Palestinian Authority does not have the competence to undertake investigations relating to cases of violence against Palestinian women, which must be done in coordination with the Israeli authorities that administrate Area C. Such cases – including those involving domestic violence and settler violence – are not investigated by the competent authorities and the perpetrators remain unpunished, perpetuating the cycle of violence.<sup>59</sup>

58. Palestinian women tend to neither trust the legal system, nor believe in its ability to address their needs.<sup>60</sup> It was reported that in some cases perpetrators of violence living in Area C escaped to Israel and remained unpunished.<sup>61</sup> Likewise, women living in East Jerusalem are trapped in a situation that requires them to either decide to continue enduring violence for years or call the Israeli police and encounter the risk of being ostracized by their own family.<sup>62</sup> For women victims of violence holding West Bank identification cards, hence not legally residing in East Jerusalem, there are even more obstacles.<sup>63</sup>

### Gendered impact of house demolitions

59. House demolitions, either for lack of a building permit or on punitive grounds (collective punishment), and forced eviction policies have a gendered impact on women.<sup>64</sup> According to reports of the Secretary-General, construction permits for residential purposes are virtually impossible for Palestinians to obtain.<sup>65</sup> The fear of or the actual demolition of women's homes has a severe psychological impact on them, causing anxiety and leading to depression. Their fear compels women to stay inside, and the actual loss of their homes results in family displacement and in living in overcrowded situations in the homes of relatives. This situation has led to an increase in the occurrence of violence against women and early marriages.

60. The Special Rapporteur met with Bedouin women from Khan al Ahmar (a hamlet of Wadi Abu Sidr), a highly vulnerable Bedouin refugee community on the outskirts of Jerusalem in Area C. These women and their families are at high risk of being forcibly transferred. The women also expressed concerns related to the lack of infrastructure for the residents of the community, including many children, who live in makeshift homes with no

<sup>56</sup> Information from the Addameer Prisoner Support and Human Rights Association.

<sup>57</sup> Adv. Insaf Abu-Shared, "Report on Violence against Bedouin Women".

<sup>58</sup> Submission from the Working Group on the Status of Palestinian Women Citizens of Israel.

<sup>59</sup> Submission from Alianza por la Solidaridad.

<sup>60</sup> See United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), "Access denied: Palestinian women's access to justice in the West Bank of the occupied Palestinian territory", research report, March 2014.

<sup>61</sup> Ibid.

<sup>62</sup> See UN-Women, "In the absence of justice: embodiment and the politics of militarized dismemberment in Occupied East Jerusalem", December 2016.

<sup>63</sup> Ibid, p. 23.

<sup>64</sup> See A/HRC/29/CRP.4.

<sup>65</sup> See, for example, A/68/513, para. 30.

running water, sanitation or electricity. Access to health-care facilities, provided through a mobile care unit, is irregular and access to education is daunting, given the long distance to schools, the lack of regular public transportation and the risks of violence girls may face on their way to and from school. The Special Rapporteur was informed about the threat of demolition of the only primary school in the area,<sup>66</sup> which was built out of mud and tyres and the confiscation in 2014 of playground equipment sponsored by the international community on the grounds that its installation was illegal.<sup>67</sup> She notes with concern that these children do not have access to a kindergarten as attempts at building a kindergarten were met by immediate demolition.<sup>68</sup>

### **Gendered impact of search operations and night raids**

61. Search operations, conducted by the Israel Defense Forces in the West Bank, including East Jerusalem, also have a devastating impact on Palestinian communities, and in particular on women. Women the Special Rapporteur met confirmed that search operations, which often took place in the close vicinity of Israeli settlements, frequently took place in the middle of the night, increased fear among them, as their families were usually woken up by the sound of shouting or loud banging at the front door.<sup>69</sup> During such raids, soldiers entered houses, in some cases, accompanied by dogs, increasing the tension and fear among occupants. While women are generally not victims of direct physical violence, the psychological violence they suffer is such that they experience severe sleeping disorders, severe stress issues and depression. A female refugee confided that she slept with her hijab on in case she was woken in the middle of the night. A 2013 United Nations Children's Fund (UNICEF) report<sup>70</sup> detailed the devastating impact of repeated night-time military incursions into Palestinian communities. Despite numerous concerns raised by the international community, shortly after its adoption the Israeli army suspended a pilot programme intended to lessen the number of Palestinian children arrested in night raids.

62. The Special Rapporteur, who visited Aida Camp, one of the 19 Palestine refugee camps in the West Bank, received first-hand information about the impact clashes and search operations have had. Those she spoke with reported being limited in their ability to move and to take part in the political, social and economic life of the community, which had left some of them cut-off and isolated. This situation is very hard for schoolchildren who live in such secluded communities and whose playgrounds are monitored by military forces, preventing them from the uninhibited use of such facilities. Camp dwellers have also suffered from excessive exposure to tear gas used by the Israel Defense Forces during their operations.

### **Gendered impact of restrictions on freedom of movement and family reunification**

63. A combination of physical and bureaucratic obstacles restricts the freedom of movement of Palestinians, including women and girls, between East Jerusalem, the West Bank and Gaza and within the West Bank itself. Restrictions are imposed by the wall and the associated legal regime, checkpoints, including mobile checkpoints, the closure of roads, the permit system and other means. These restrictions have multiple human rights repercussions affecting women with regard to, inter alia, family and social life, access to education, health, employment and land, and freedom of movement.<sup>71</sup>

64. The Citizenship and Entry into Israel Law (Temporary Order), an emergency regulation applicable in East Jerusalem, has been continuously renewed since its adoption in 2003. Pursuant to the Order, family unification rights have been frozen, prohibiting

<sup>66</sup> See A/67/375 and A/69/348.

<sup>67</sup> See [www.haaretz.com/middle-east-news/.premium-1.576978?=&ts=1485167550070](http://www.haaretz.com/middle-east-news/.premium-1.576978?=&ts=1485167550070).

<sup>68</sup> See shadow report submitted by the Women's Center for Legal Aid and Counselling to the Committee on the Elimination of Discrimination against Women, 2016. Available from [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1074&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1074&Lang=en).

<sup>69</sup> See <http://www.wclac.org/english/userfiles/NIGHT%20RAIDS.pdf> and the shadow report submitted by the Women's Center for Legal Aid and Counselling.

<sup>70</sup> See [www.unicef.org/oPt/UNICEF\\_oPt\\_Children\\_in\\_Israeli\\_Military\\_Detention\\_Observations\\_and\\_Recommendations\\_-\\_6\\_March\\_2013.pdf](http://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf).

<sup>71</sup> See also A/HRC/31/44.

Palestinians from the West Bank and Gaza from obtaining residency or citizenship status in East Jerusalem, including by marriage to an Israeli citizen.<sup>72</sup> Following amendments introduced in 2005 and 2007, if a husband asks for a permit for his wife, she has to be 25 years old or above to apply, and if the permit is for the husband, he has to be 35 years old or above to apply. The permits are only renewable for one year and provide no prospect for the permit holder of obtaining residency, social security or health insurance. Several treaty bodies have found Israel to be in violation of its human rights obligations.<sup>73</sup>

65. In Gaza, the blockade imposed by Israel since 2007 has a devastating impact on the human rights of its inhabitants, in particular women victims of violence.<sup>74</sup> It places severe restrictions on the right to health and education of such victims, since women who are in need of medical care in the West Bank, East Jerusalem and Israel are dependent on the issuance of a permit by the Israeli authorities, described by various sources as a complicated process. The blockade has also impeded the construction of the 17,000 housing units that were badly damaged or destroyed during the 2014 war,<sup>75</sup> which has also had profound impacts on women. Seven hundred women were widowed during the war and now face difficulties in providing for their families. This is coupled with limited or no control by women over benefits, including humanitarian assistance and entitlements, due to male domination, and a lack of access to shelters and health care, education and social protection due to the damaged infrastructure and reduced services.<sup>76</sup>

#### **Gendered impact of violence perpetrated by settlers**

66. The establishment and expansion of settlements has been accompanied by an increase in settler violence against Palestinians, including women and girls. About 70,000 Palestinians living in Area C have been subjected to settler violence,<sup>77</sup> including harassment, physical violence and destruction of property.<sup>78</sup> Such violence has a psychological impact on women, as they constantly fear for themselves and their children. It also increases the pressure on and within the family and is conducive to domestic violence.

67. The Special Rapporteur visited Qurtuba School in Hebron and met with teachers and pupils who said they were the subject of constant attacks, threats and humiliation from neighbouring settlers, but also from some Israel Defense Forces members at the checkpoints they needed to cross on their way to school. Delays at checkpoints and temporary closures without prior notice impeded their ability to fully attend school or go to work. In some cases, Israel Defense Forces have turned a blind eye to such violence and in others they appear to have even taken part in it. It was reported that, between 2005 and 2013, only 8.5 per cent of the complaints of alleged violence by Israelis against Palestinians led to an indictment,<sup>79</sup> which demonstrates the prevailing impunity for such violence.

#### **Gendered impact of excessive use of force by Israel Defense Forces and security forces**

68. The Special Rapporteur expresses serious concern at credible reports of a permissive environment within which Israel Defense Forces soldiers operate and which, in some instances, has contributed to excessive use of force and threatening behaviour towards the population under their protection, including women and girls. She received reports of the use

<sup>72</sup> Shadow report submitted by the Working Group on the Status of Palestinian Women Citizens of Israel to the Committee on the Elimination of Discrimination against Women. Available from [https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1074&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1074&Lang=en).

<sup>73</sup> See, for example, CEDAW/C/ISR/CO/5, paras. 26–27.

<sup>74</sup> A/HRC/24/30, para. 22.

<sup>75</sup> See [www.hrw.org/world-report/2016/country-chapters/israel/palestine](http://www.hrw.org/world-report/2016/country-chapters/israel/palestine).

<sup>76</sup> A/HRC/31/43, para. 14. See also Committee on the Elimination of Discrimination against Women, general recommendation No. 30 (2013) on the economic consequences of marriage, family relations and their dissolution.

<sup>77</sup> Submission from Alianza por la Solidaridad.

<sup>78</sup> Communication ISR 9/2013.

<sup>79</sup> Yesh Din – Volunteers for Human Rights, see [www.yesh-din.org/en/july-2013-data-sheet-law-enforcement-on-israeli-civilians-who-damage-palestinians-and-their-property-in-the-west-bank-updated-figures-for-2005-2013/](http://www.yesh-din.org/en/july-2013-data-sheet-law-enforcement-on-israeli-civilians-who-damage-palestinians-and-their-property-in-the-west-bank-updated-figures-for-2005-2013/).

of lethal force against Palestinians, including cases in which women suspected of committing violent acts were responded to with excessive force by Israeli law enforcement officials or security forces.<sup>80</sup> She also received information about delays in the provision of medical assistance to Palestinian women who allegedly perpetrated attacks on Israelis, which resulted in some cases in the death of these women.<sup>81</sup>

## V. State responses and measures to address violence against women

### A. Legislative framework

69. In the 1948 Declaration of the Establishment of the State of Israel<sup>82</sup> the State guaranteed equality of social and political rights to all inhabitants irrespective of, among other things, their sex. In 1951, the Women's Equal Rights Law guaranteed women equality before the law, but the Knesset expressly excluded equality before the law to women with regard to all issues concerning permission to marry or divorce.<sup>83</sup>

70. Israel has no constitution and the principle of non-discrimination is incorporated in several Basic Laws.<sup>84</sup> The 1992 Basic Law: Human Dignity and Liberty serves as a Bill of Rights.<sup>85</sup> Among other things, it grants the right to human dignity, which has been interpreted by the courts as including the principle of equality between men and women. This law upholds equality between men and women, but only in the public sphere. It mostly excludes the private sphere, regulated by the laws on personal status and determined by the different religious courts – the Jewish rabbinical courts, Muslim sharia courts, Christian courts and Druze courts. As a result, religious and family courts coexist, but with exclusive jurisdiction of religious courts for matters related to marriage and divorce. These religious courts, which incorporate a patriarchal concept of women's role in the family, affect the full participation of women in the public sphere.<sup>86</sup> The Special Rapporteur is concerned that this key legislation contains neither a general provision on equality between women in all areas of life nor a prohibition of both direct and indirect discrimination against women.<sup>87</sup>

71. The Special Rapporteur recognizes that a number of legislative measures have been taken to improve the legal framework, including amendments to the Penal Law in relation to rape abolishing the requirement of corroborative evidence and disallowing examination of the rape victim's past sexual experience. Additionally, the definition of rape was broadened and marital rape was prohibited. The progressive 1998 Prevention of Sexual Harassment Law prohibits all forms of sexual harassment in the workplace, places responsibility on the employer to take preventive measures against sexual harassment and provides for both criminal and civil sanctions for employers failing to meet such preventive requirements. An amendment to this law in 2012 extended the statute of limitations from three years from the date of the commission of the act to seven years. There have been a number of cases in which labour courts have required employers to pay damages to women who were sexually harassed in the workplace. However, sexual harassment committed against women working in the police, in the army and those active in politics remains widespread.

72. The Special Rapporteur welcomes a subsequent amendment to the Prevention of Sexual Harassment Law that criminalizes the distribution of pictures or video recordings with sexual content without the subject's consent. The crime is punishable by five years of

<sup>80</sup> See A/HRC/31/40, A/71/364 and A/71/355, cases of Hadeel al-Hashlamoun, Tharwat al-Sharawi, Hadeel Wajih Awwad (a teenager) and Yasmeen Al-Zaru.

<sup>81</sup> See for example, A/71/355, paras. 42–43.

<sup>82</sup> See [www.knesset.gov.il/docs/eng/megilat\\_eng.htm](http://www.knesset.gov.il/docs/eng/megilat_eng.htm).

<sup>83</sup> See <https://jwa.org/encyclopedia/article/equality-religion-and-gender-in-israel>.

<sup>84</sup> See HRI/CORE/ISR/2008.

<sup>85</sup> Ibid.

<sup>86</sup> See <http://jwa.org/encyclopedia/article/equality-religion-and-gender-in-israel>.

<sup>87</sup> See CEDAW/C/ISR/CO/5.

imprisonment, in addition to civil liability and the duty to pay monetary compensation to the victim.<sup>88</sup>

73. In the area of domestic violence, sections 382 (b) and (c) and section 335 (a1) of the Penal Law consider as aggravated offences cases of violence in which the affected party is a spouse, family member or a minor. The 1991 Prevention of Violence in the Family Law authorizes a court to issue a protection order against a family member who committed violence or a sexual offence against a family member or if they can reasonably be assumed to pose a physical danger to a family member. In 2008, this law was amended to clarify that, except for usual circumstances, courts are not authorized to reject a request for a protection order in the absence of a hearing in which the requestor or his or her representative can argue his or her case.<sup>89</sup> It is estimated that each year some 8,000 requests for protection orders are presented to the courts under this law.<sup>90</sup>

74. The 2001 Rights of Victims of Crime Law safeguards a wide range of rights of victims during criminal proceedings, including the right to be notified of the perpetrator's arrest or release. To implement this law, the police established a computerized system for victims to receive such information.

75. In July 2016, the 2014 law regarding litigation arrangements for family disputes, which makes mediation in family law disputes related to divorce proceedings mandatory both in family and religious courts, came into effect for a trial period of three years. While several articles and procedures are aimed at exempting victims of domestic violence from the mandatory alternative dispute resolution, these exceptions are not sufficient, since they do not address, for example, economic and psychological violence.

76. In relation to economic violence, the Special Rapporteur welcomes the preparation of the draft Prevention of Violence in the Family Law (amendment No. 16 – preventing economic violence) in 2016, which the public was invited to provide comments on. The draft amendment envisions the possibility of granting *ex parte* protection orders, which is commendable.

77. In terms of access to justice, the Legal Aid Department of the Ministry of Justice provides legal aid in all civil matters to citizens and residents who meet the eligibility criteria under the Legal Aid Law and the Legal Aid Regulations. The legal aid scheme of this department provides representation for victims of domestic abuse in various proceedings, including, in 2015, in relation to 1,269 protection order proceedings and for the “fast track” procedure for protection and preventive orders, and provides direct liaison *vis-à-vis* shelters it has established. The Special Rapporteur, however, draws attention to some protection gaps: legal aid is only provided in civil proceedings, leaving a protection gap with regard to women victims and witnesses in criminal proceedings. Families of victims of murder and homicide (including femicide) receive both civil and criminal legal assistance<sup>91</sup> regarding all aspects of these crimes. Because of the connection between the provision of legal aid and the discriminatory provisions related to divorce, special attention should be given to women victims of domestic violence in divorce proceedings.

## B. Policy framework

78. The Special Rapporteur acknowledges the initiatives taken by the Ministry of Religious Services to train wives of head rabbis on domestic violence. She notes, however, that such training should be expanded to include rabbis themselves and other religious leaders in order to get them to speak out against violence against women.

79. As part of government efforts to counter violence against women, in September 2014 the Minister of Public Security and the Minister of Social Affairs and Social Services decided

<sup>88</sup> See [www.loc.gov/law/foreign-news/article/israel-prohibition-of-online-distribution-of-sexual-images-without-consent/](http://www.loc.gov/law/foreign-news/article/israel-prohibition-of-online-distribution-of-sexual-images-without-consent/).

<sup>89</sup> See [www.loc.gov/law/foreign-news/article/israel-prevention-of-domestic-violence/](http://www.loc.gov/law/foreign-news/article/israel-prevention-of-domestic-violence/).

<sup>90</sup> See [www.unwomen.org/~media/headquarters/attachments/sections/csw/59/national\\_reviews/israel\\_review\\_beijing20.pdf](http://www.unwomen.org/~media/headquarters/attachments/sections/csw/59/national_reviews/israel_review_beijing20.pdf).

<sup>91</sup> Through the assistance to victims of homicides programme.

to establish an interministerial committee on domestic violence. The findings and recommendations of the committee were published in July 2016. The Special Rapporteur commends the establishment of such a committee which, since 2003, has also been analysing cases of intimate partner femicide on a monthly basis.

80. The Special Rapporteur was informed that the Ministry of Health, through its hospital-based emergency departments, offers round-the-clock medical assistance to any victim of intimate partner violence. Five acute care centres offer services for sexual assault victims 24 hours a day. The national social work service, part of the department of family violence and sexual abuse, includes a national coordinator on violence against women and six regional coordinators running six centres nationwide that provide 24-hour-a-day comprehensive care with multidisciplinary staff and that collaborate closely with all other ministries and agencies. Each district has a committee for prevention of domestic violence and sexual assault with a multidisciplinary composition. A 2003 circular issued by the Ministry of Health made it mandatory for every woman admitted to a medical centre to be screened for domestic violence. Since 2011, in accordance with the Prevention of Violence in the Family Law, medical staff specifically trained to recognize victims of domestic violence are obliged to inform victims of intimate partner violence about their rights.

81. At the time of the visit, there were 14 shelters for victims of domestic violence and their children in the country, of which 2 were designated for ultra-Orthodox Jewish women, 2 for Arab women and 2 for mixed communities. The Special Rapporteur visited two shelters and observed a lack of Arab-speaking social workers, in particular in cities with mixed populations and in the Negev, despite the significant number of Arab-speaking women benefiting from such services.<sup>92</sup> She also received information about difficulties in finding social workers adequately trained to work in the ultra-orthodox communities. Many interlocutors reported that shelters were often seen by women victims of violence as a form of punishment and as a result many preferred to have recourse to protection orders.

82. There are 100 centres and units providing treatment and other services to women victims of domestic violence and also to men who have committed acts of domestic violence. There are also 11 rape crisis centres and a national hotline for women and children victims of violence operated by the Ministry of Social Affairs and Social Services in collaboration with the Women's International Zionist Organization and other hotlines run by non-governmental organizations. These centres are not properly distributed throughout the territory and are not located in or close to Bedouin communities.<sup>93</sup>

83. Women asylum seekers victims of violence can only access shelters and rehabilitation facilities if their life is threatened and then only for a stay of three months. In addition, while in shelters, they are often not provided with social workers who speak their language and have an adequate knowledge of their cultural background. When these women leave the shelter, they do not receive follow-up support and treatment from social services, leaving them at risk of returning to situations of violence. The Special Rapporteur met with women asylum seekers in shelters in Southern District who did not have access to health services, only to emergency services that the shelters themselves had to pay for.

84. The Special Rapporteur was informed that victims of trafficking were provided with one-year rehabilitation packages, which included a stay in a State-run shelter and a B-1 visa, which allowed victims to work and to benefit from health insurance. However, if the victims were not placed in a shelter, they could not benefit from the package.

85. The Special Rapporteur is concerned, in particular in relation to women and girls suffering from domestic violence and death threats within the Arab and Bedouin communities, about the lack of holistic services and notes a protection gap in terms of rehabilitation services.

<sup>92</sup> See shadow report submitted by the Working Group on the Status of Palestinian Women Citizens of Israel.

<sup>93</sup> Ibid.

### C. Institutional framework

86. In December 2014, the Authority for the Advancement of the Status of Women, established in 1998 as part of the Prime Minister's Office to advance the status of women and coordinate among governmental and non-governmental bodies acting to promote the status of women,<sup>94</sup> was renamed the Authority for the Promotion of Gender Equality and was transferred to the Ministry of Social Equality, which is also responsible for other portfolios. According to the Government, such restructuring took place to ensure delivery on its key functions.

87. The institutions of the State Comptroller and Ombudsman are located within an office that has dual functions. The office received 15,000 complaints in 2015, of which 33 per cent were found to be justified. The office has branches in Nazareth, Lod and Beersheba, three cities of low economic status. Any person, including a minor, independently of his or her status, can file a complaint to the Ombudsman regarding cases of human rights violations by State entities. The Special Rapporteur was informed that complaints against both the police and welfare services relating to violence against women have been handled by the Ombudsman with some positive results, including the handling of sexual harassment complaints by members of the Israel Defense Forces.<sup>95</sup> Complaints against the police included demands for the acceleration of police investigations, requests for mediation between the complainant and the police and requests for other investigatory actions to be carried out. Complaints against social workers during proceedings following a divorce and relating to social services given to the victims of domestic abuse were also handled by the office. Israel does not, however, have a national human rights institution in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

## VI. Conclusions and recommendations

88. **With respect to the gaps observed in the implementation of its human rights and humanitarian law obligations in respect of all women under its jurisdiction and in particular to fulfil its obligations, including its due diligence obligation to prevent violence against women, to protect and provide remedies to women who have been subjected to violence and to prosecute and punish the perpetrators, the Special Rapporteur addresses the following recommendations to the Government.**

89. **Regarding law and policy reform, the Special Rapporteur recommends that the Government:**

(a) **Urgently remove its reservation to articles 7 (b) and 16 of the Convention on the Elimination of All Forms of Discrimination against Women and ratify the Optional Protocol to the Convention;**

(b) **Fully incorporate the Convention on the Elimination of All Forms of Discrimination against Women in its legal system and give full effect to its provisions, including through increased training and education on its content and related jurisprudence;**

(c) **Amend the Basic Law: Human Dignity and Liberty to explicitly incorporate the principles of gender equality and non-discrimination in the public and private sphere with regard to all persons within its territory or subject to its jurisdiction or effective control, regardless of their national or ethnic origin;**

(d) **Continue its work to ensure the compatibility of national laws and policies on preventing and combating violence against women with provisions of the Istanbul Convention with a view to its ratification;**

<sup>94</sup> See [www.pmo.gov.il/English/PrimeMinistersOffice/DivisionsAndAuthorities/Pages/TheAuthorityfortheAdvancementoftheStatusofWomen.aspx](http://www.pmo.gov.il/English/PrimeMinistersOffice/DivisionsAndAuthorities/Pages/TheAuthorityfortheAdvancementoftheStatusofWomen.aspx).

<sup>95</sup> See CEDAW/C/ISR/5.

(e) Introduce the option of civil marriage and divorce, as already recommended by the Committee on the Elimination of Discrimination against Women, allowing freedom of choice between civil and religious marriages. Furthermore, harmonize religious laws currently governing marriage and divorce with the Convention and eliminate provisions that discriminate against women, including by prohibiting the unilateral power of male partners to transmit the *get* and the practice of retroactive invalidation of divorces;

(f) Adopt a national action plan on the implementation of Security Council resolution 1325 (2000) and ensure the participation of all women in Israeli society in its preparation;

(g) Put in place a comprehensive strategy targeted at women and men at all levels of society, including religious leaders, to eliminate stereotypes and patriarchal attitudes about the roles and responsibilities of women and men in the family and in society, as well as harmful practices that discriminate against women, in conformity with the Convention on the Elimination of All Forms of Discrimination against Women;

(h) Amend the law on litigation arrangements for family disputes so that in divorce proceedings mediation is not mandatory in cases involving all forms of violence against women;

(i) Take active measures to enforce the legal prohibition of polygamy and child or forced marriages in the Arab and Bedouin communities;

(j) Take effective measures to improve the situation of Bedouin women and girls with regard to their access to shelters and other protection and empowerment measures, health care, education and employment and ensure their participation in any process concerning their situation;

(k) Ensure that asylum-seeking women victims of gender-based violence and female migrants whose residence status depends on that of their spouses or partners are, in the event of the dissolution of the marriage or the relationship, granted an autonomous residence permit in line with general recommendation No. 32 (2014) on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women of the Committee on the Elimination of Discrimination against Women and article 59 of the Istanbul Convention;

(l) Provide long-term rehabilitation for women asylum seekers who are victims of trafficking, ensure the effective identification of women asylum seekers who are victims of torture and guarantee that the latter receive adequate holistic rehabilitation support and free legal aid if they do not qualify as victims of trafficking;

(m) Recognize that gender-related persecution may constitute legitimate grounds for asylum, in accordance with its obligations under the Convention on the Elimination of All Forms of Discrimination against Women and general recommendation No. 32;

(n) Extend legal aid to criminal proceedings and provide free legal aid in divorce proceedings, for women who are victims of domestic violence;

(o) Promptly adopt the draft law on economic violence;

(p) Investigate allegations of ongoing pressure on and arbitrary arrest and detention of women human rights defenders and the lack of sufficient protection for them;

(q) Consider revising the Firearms Law so that off-duty security employees are no longer allowed to bring weapons home from work for security reasons;

(r) Consider issuing a standing invitation to all special procedure mandate holders.

90. Concerning investigations, prosecution support services and protective measures, the Special Rapporteur recommends that the Government:

(a) Ensure effective access to justice for all victims of gender-based violence under its jurisdiction or effective control, in line with general recommendation No. 33 (2015) on women's access to justice of the Committee on the Elimination of Discrimination against Women, and address underreporting and the lack of investigation of cases of violence against women due to social pressure from families, on one side, and a lack of trust in the police force of Israel, which administrate and have full control over security, on the other;

(b) Increase the number of shelters for victims of gender-based violence, including victims of trafficking and torture, and of crisis centres in remote areas, as well as the number of social workers in shelters speaking Arabic and languages of other minority groups;

(c) Address the protection gap related to the absence of holistic, forward-looking services for women and girls at risk of domestic violence within Arab communities and in particular provide appropriate and dedicated out-of-home care and long-term integration and protection services for women within these communities;

(d) Extend legal aid in criminal proceedings to women and girls who are victims or witnesses and, in doing so, consider the option of extending the assistance to homicide victims programme;

(e) Establish a procedure to process cases involving female Palestinian victims of domestic violence who are forced to escape to Israel and to provide them with protection, including with regard to the type and duration of support (e.g., access to shelter) and solutions in Israel, and set up clear criteria before actions are taken to return battered women to the Occupied Palestinian Territory for the purpose of reintegration and family reunification.

91. The Special Rapporteur also recommends that the Government further promote the work of the Ombudsman in relation to complaints of violence against women and consider the establishment of a national human rights institution in accordance with the Paris Principles.

92. In relation to the collection of data and the prevention of violence against women, the Special Rapporteur recommends that the Government:

(a) Establish a "femicide watch" and collect and publish each year data on the number of all femicides, including intimate partner or family-related femicides, disaggregated by the age and ethnicity of the victims, and establish a separate body or entrust an existing body, such as the Ombudsman, with analysing all cases of femicide in order to identify any failures on the part of the State;

(b) Collect gender-disaggregated data on all forms of violence against women for all women under its jurisdiction, including disadvantaged groups, such as Palestinian women citizens of Israel, Bedouin women and women asylum seekers.

93. The Special Rapporteur renews the call on the Government to end the occupation and conflict and to promptly address its gendered impact, in line with its obligations under human rights and humanitarian law principles. To that end, she recommends that the Government:

(a) Take action to combat and prevent human rights abuses and violations against women and girls committed by State and non-State actors in the Occupied Palestinian Territory and at checkpoints, promptly investigate those cases, ensure that the perpetrators are brought to justice and provide the victims with effective access to legal remedies and adequate compensation;

(b) Refrain from implementing evictions and demolition orders without taking into consideration the human rights of the women and children concerned, including their right to adequate housing, and review the housing policy and issuance of building permits to Palestinians to ensure the enjoyment by Palestinian women of their right to adequate housing and to family and private life;

- (c) **Ensure independent and impartial investigations of allegations of settler violence, in line with Committee on the Elimination of Discrimination against Women's general recommendation No. 30, and of excessive use of force by the Israel Defense Forces;**
- (d) **Remove obstacles related to access to justice for women victims of gender-based violence and ensure their effective access to justice, including its interrelated components of justiciability, availability, accessibility, good quality and provision of remedies for victims, in line with general recommendation No. 33;**
- (e) **Review its security laws and regulations that restrict women's human rights related to family and family unification;**
- (f) **Incorporate the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) into national legislation and carry out prompt, thorough, effective and impartial investigations into all allegations of torture and ill-treatment of women prisoners, hold perpetrators accountable and provide victims with effective remedies, including appropriate compensation, and in addition review its practice of administrative detention of women and the use of secret evidence in administrative detention proceedings;**
- (g) **Take effective measures to eliminate discrimination and gender-based violence against Bedouin women living in Area C and protect their human rights through empowerment measures, including in the fields of education, employment, health and housing;**
- (h) **Alleviate the pressure of the occupation for women and children living in the refugee camps and provide safe playgrounds and sports grounds, in cooperation with civil society organizations and the United Nations agencies present in these camps;**
- (i) **Lift its blockade of the Gaza Strip and address its gender impact on women, including victims of violence against women, and their rights of freedom of movement, and provide unrestricted access for the provision of humanitarian assistance and construction materials needed, especially for widowed women caring for children and living in caravans.**
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