

PALESTINE



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Gender Justice & The Law

DOES THE LAW ENSURE GENDER EQUALITY AND PROTECTION FROM VIOLENCE?

The colour-coded representation below provides a comparison of the laws identified in the country profile with international human rights standards, the recommendations of the UN Committee on the Elimination of Violence against Women and country recommendations under the country's respective Universal Periodic Reviews.

YES

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

NO

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

Partly

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

No available data or inadequate information.

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

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

Constitution

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

NATIONALITY LAW

NATIONALITY

There is no Palestinian nationality law.

PALESTINE

CRIMINAL LAWS

Domestic violence

Palestine has no domestic violence legislation.

Marital rape

Marital rape is not criminalized.

Rape (other than of a spouse)

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

Exoneration by marriage

In the West Bank, Article 308 of the Penal Code previously exonerated a rapist of criminal responsibility if he married the rape survivor. Law No. 5 of 2018 repealed Article 308 of the Penal Code.

Abortion for rape survivors

Abortion is prohibited in the West Bank by the Jordan Penal Code (Articles 321–325) and in Gaza by the Criminal Code of 1936 (Articles 175–177).

Sexual harassment

Sexual harassment is not criminalized by the Labour Code. Article 305 of the Penal Code criminalizes unwanted sexual conduct, which covers some types of sexual harassment.

Honour crimes: Mitigation of penalty

Laws allowing mitigation of penalties for 'honour' crimes were repealed in 2011 and 2018 in the West Bank. However, the government in Gaza has not applied the reforms.

Adultery

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

Female Genital Mutilation / Cutting (FGM/C)

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

Human trafficking

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

Sex work and anti-prostitution laws

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

Sexual orientation

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

PERSONAL STATUS LAWS

Minimum age of marriage

The Muslim personal status laws set the minimum legal age of marriage as 15 years for girls and 16 years for boys in the West Bank, and 17 years for girls and 18 for boys in the Gaza Strip. The ages can be lower if a judge allows it (with a guardian's approval in the case of the girl).

Male guardianship over women

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

Marriage and divorce

The personal status laws for Muslims require the husband to maintain the wife. A wife owes obedience to her husband. A husband can divorce by repudiation (talaq). A wife has the right to divorce on specified grounds. She can also apply for a khul'a divorce without grounds if she forgoes financial rights.

Polygamy

Polygamy is permitted.

Guardianship of children

Fathers are the sole guardians of children.

Custody of children

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

Inheritance

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

LABOUR LAWS

Right to equal pay for the same work as men

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

Dismissal for pregnancy

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

Paid maternity leave

The Labour Law allows for maternity leave of 12 weeks, which is less than the ILO standard of 14 weeks.

Legal restrictions on women's work

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

Domestic workers

The Labour Law does not apply to domestic workers. The President's Decree No. 2 of 2013 provides some protections for domestic workers relating to the number of working hours, the right to rest, remuneration, post-contract rights, and compensation.