

“Am I a Warrior Yet?” Female Palestinians in Detention

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ABSTRACT

The Israeli political suppression of Palestinian society shifts the focus from dealing with gender-based violations internal to Palestinian society to the national struggle. Because the fight for gender-based violations is ignored, Palestinian women become trapped between two patriarchal regimes: the patriarchal regime of domestic affairs within Palestinian society, and the patriarchal regime of the foreign military occupation. Patriarchal manifestations from each regime build off and reinforce each other in a cycle, which results in further oppression of the Palestinian woman.

Despite their contributions and the heroic role, they have taken for their nation, female Palestinian prisoners – who struggle in detention just like their male counterparts and often suffer from systematic gender-based torture during their interrogation and imprisonment – return to a suppressive home and cultural environment. Instead of a supportive society waiting for them, they find a conservative Palestinian society where responsibility to the tribe or the family overpowers all else, muting the women’s voice.

Keywords:

Gender-based violence, sexual violence, female prisoners, occupation, Palestine, Israel.

INTRODUCTION

This essay aims to call attention to a nearly invisible aspect of the Palestinian struggle: the plight of female political detainees in Israeli prisons. The ones whose names are not cried out during demonstrations, the ones not declared national heroes, the ones most hardened activists—with some exceptions—do not even know exist. Yet, Palestinian women have always been an integral aspect of the national struggle— they are the freedom fighters, the martyrs, the mothers, the sisters, the daughters, the leaders, and yes, the prisoners. In her study, Shalhoub-Kevorkian (2012) argues that the Grammar of Rights exists in the expressions and representation level; hence the more a group is expressed in ideologies, symbols, texts and images, the more they have representation in society and the more they are a part of the rights struggle. This reveals the historical interconnectedness between one’s identity and the basic right to have rights.

The struggle against Israeli oppression defines all Palestinians’ lives and dominates the national ethos; therefore, social issues affecting Palestinian society, including gender-based justice issues, are functionally subordinated to the pursuit of sovereignty and independence. That is not to say Palestinian society does not face these issues; rather,

Palestinian women become trapped between a patriarchal Arab-Palestinian societal regime and the patriarchal Israeli regime—both of which oppress them, yet both of which’s methods of oppression build off each other. Each regime, while oppressive in its own way, impede Palestinian women from struggle against the other. The overlapping power dynamics form a vicious cycle that negatively impacts this vulnerable group of Palestinian society.

With the rise of political Islamism as the primary means and discourse of resisting Israeli occupation, the female prisoners of today mostly hail from lower socioeconomic and more conservative backgrounds. In this segment of Palestinian society, patriarchy is particularly acute: the role of the tribe or the family overrules all else and mutes the women’s voices.

Using a Palestinian critical feminist analytics lens, which is absent from the mainstream analysis of the Palestinian-Israeli conflict, provides an opportunity to reveal stories of those who are deprived the right to speak, it pays attention to the struggle Palestinian women face on a daily basis for being female and for being Palestinians. The author’s aim is to rethink the position of Palestinian females as warriors and prisoners. These females are excluded from the human rights and anti-racist policy because both the theory and the policy are controlled by hegemonic regimes of power which exclude women on a daily basis. As such it is argued that due to the submission of the Palestinian females in their own society it becomes easier to manipulate them on a political level and use their gender and sexuality as leverage against them in the confrontation with the occupation. Hence the very regime that denies the rights of Palestinians is also the one that imposes and limits resistance against these conditions.

The center of analysis focused around Palestinian female political detainees in Israeli detention facilities, these detainees are imprisoned due to their political activities; whether participating in demonstrations, organizing a university political movement, throwing stones at soldiers, or any other clashes with the Israeli occupation. The prisoners mentioned in the article mostly are under 30 years of age, and mainly come from the occupied Palestinian territories (oPt) including West Bank and occupied east Jerusalem. Bringing stories of these women provides an opportunity to comprehend the effect of the double burden they face from the patriarchy of the Palestinian society and the patriarchy of the colonial Israeli prison.

The cases presented in this research are provided by The Public Committee Against Torture in Israel. To protect the victims and not expose their identity, this paper only identifies them by their aliases.

POLITICAL INVOLVEMENT

Female warriors

The metaphor of nation as a motherland or a fatherland defines the administration and institutionalized genders, such as military and bureaucracy, as well as the gendered strategies of reproducing not only the nation and its nationalist agent but also the national culture defining it.¹ As Kumari Jayawardena identifies the gender objectives of nationalist reforms across Asia:

“... to establish in their countries a system of stable, monogamous nuclear families with education and employable women such as was associated with capitalist development and bourgeois ideology, and yet to ensure that women would retain a position of traditional subordination within the family.”²

In the Arab society as in other parts of Asia, national identity and nationalist agency were the sites of negotiating not only East and West as conceptual anchoring categories, but also, as importantly, the foundational ruse of gendered citizenship. The respective responsibilities of men and women to the nation emerged as epistemic cornerstones of nation-building.³

Although history has taught us revolutions have foundered on a “nation first, women after” strategy, Palestinian females have always been a part of the political struggle, whether in the form of a freedom fighter or a mother burying her grief by making the *Zaghruta*⁴ sound when her martyred son or daughter is taken away from her – a way of showing the oppressor that her nation and child are not defeated. Communique No. 29, entitled “The Call of the Wedding of the Palestinians Independent State,” which celebrates the Declaration of

¹ Massad Joseph, *Conceiving the Masculine: Gender and Palestinian Nationalism*, Middle East Journal. Vol. 49. No. 3 (Summer, 1995). P. 468

² Kumari Jayawardena, *Feminism and Nationalism in the Third World* (London: Zed Press, 1986), p. 15

³ Massad Joseph, *Conceiving the Masculine: Gender and Palestinian Nationalism*, The Middle East Journal, Vol. 49, No. 3. (1995). Pp 468

⁴ Also known as *zalgouta* or the act of ululating- practiced all the over the Middle East and in some parts of Africa. An *zaghruta* is a high-pitched tongue trill, a physical skill that involves the throat and tongue. Women, who mainly use this loud expression to celebrate a joyful event, such as weddings, the use of the *zaghrura* in times of martyrdom is a symbolic way of refusing to surrender. The other reason is to celebrate the martyrs way to heaven.

Independence, congratulates women in their roles as mothers, salutes “the *mother of the martyr* and her celebratory ululations, for she has ululated twice, the her *son* went to fight and was martyred, and the day the state was declared.”⁵ Communique No.5 describes Palestinian mother, sisters, and daughters as “*manabeet*”⁶ or other soil which “*manhood, respect and dignity*” grow. The Palestinian women are called to “work together side by side with their husbands, sons, and brothers...”

In the 1974 UN speech, Yasir Arafat had described the Palestinian people as the “trustworthy guardian” of the holy land.⁷ The November 1988 Declaration of Independence, Palestinian women were given the adjective of “courageous,” describing her as the “guardian of our survival and our lives, guardian of our perennial flame.”⁸ Such a woman would care for her children, maintain her “honor” and protect her reputation. She was typically a widow or a woman with an absent husband. Feminist scholarship has dealt with three characteristics of the ideal woman: maternity, sacrifice, suffering, and maintenance of “honor.” A fourth characteristic, according to Areen Hawari, is being the main provider of the family after the death of the husband.⁹ Andrew Parker et. al, in their pioneering collection of *Nationalism and Sexualities*, argue that in “the same way that ‘man’ and ‘woman’ define themselves reciprocally (although never symmetrically), national identity is determined not on the basis of its own intrinsic properties but as a function of what it (presumably) is not”¹⁰ thus the important task for anti-colonial nationalists is not only to define gender roles in relation to each other, but also to set both in relation to nationalist project, while dissociate national identity from any colonial contamination.

However; the face of the female freedom fighter has changed significantly with the rise of political Islamism within Palestine and the Hamas leadership that reflects the

⁵ The Palestinian Liberation Organization “I’lan al-Istiqlal” (The declaration of Independence). The official Arabic text was published in *Shu’un Filastiniyya* 188 (November 1988) p. 5

⁶ Ibid. Meaning greenhouses or plant nurseries.

⁷ Yasir Arafat, Arafat’s UN Address to the General Assembly, p. 8. The original Arabic text in *Shu’un Filastiniyya* (Palestine Affairs) (December 1974), p. 11.

⁸ The Palestinian Liberation Organization “I’lan al-Istiqlal” (The declaration of Independence). The official Arabic text was published in *Shu’un Filastiniyya* 188 (November 1988) p. 5.

⁹ Hawari Areen, “Men Under the Military Regime”, *Adalah’s Review*, Vol 4. (2012): 41.

¹⁰ Andrew Parker, Mary Russo, Dris Sommer, and Patricia Yaeger, eds, *Nationalisms and Sexualities* (New York: Routledge, 1992), p. 5.

Palestinian society's religious and conservative shift.¹¹ Soon the liberal-looking female fighters like Shadia Abu-Ghazaleh¹² and Leila Khaled—sporting her Palestinian *Kufeyeh* --¹³ changed to a more conservative image, with the *Kufeyeh* that used to cover the head as a symbol of resistance replaced with an Islamic veil.

Though the rise of political Islam restricted women from being active in the public sphere, it could not stop her political involvement completely. Even the recent violence or *Third Intifada* has witnessed a significant number of female assailants; as the latest statistics published in the Israeli Security Agency (ISA) website shows, 11% of the total assaults conducted against Israelis between October 2015 and February 2016 were committed by females.¹⁴

However, these statistics do not reflect the exact number, as many people have been falsely accused of attacking someone and they were summarily executed without judicial review or investigation. Racial profiling of Palestinians within Israel and the occupied Palestinian territories (oPt) is done on a daily basis; during escalations like the recent wave of violence since October 2015, when the mere identity of the person becomes a source of threat, mere profiling shifts to physical targeting.

In this case, a women's national origin (Arab-Palestinian or Jewish-Israeli) can be easily profiled due to the veil that many Muslim Palestinian women wear. Therefore, it is easier to target her on the ground of being a Palestinian, even when she is unarmed or does not reflect an immediate danger, as it was the case of Esraa Abed. Esraa is a veiled 30-year-old student and a mother who was waiting for a bus at the Afula central bus station when ten

¹¹ Amal, J, *Engendering State-Building: The Women's Movement and Gender-Regime in Palestine*, Middle East Journal, Vol. 55, No. 2 (2001): 256-276

¹² Shadia Abu-Ghazaleh was born in Nablus, she joined the Arab Nationalist Movement as a young woman in 1964, seeking the liberation of Palestine and the Arab homeland, and was the first female martyr to fall in the 1967 war. See: Kawar, A. *Daughters of Palestine: Leading Women of the Palestinian National Movement*. State University of New York Press, Albany, 1996.

¹³ Leila Khaled is a member of the Popular Front for the Liberation of Palestine (PFLP) and an airline hijacker who was later released in a prisoner exchange for civilian hostages kidnapped by her fellow PFLP members. See: Ibid.

¹⁴ The Israeli Security Agency (ISA) website (Hebrew content) last accessed April 30, 2016 <https://www.shabak.gov.il/SiteCollectionDocuments/%D7%9E%D7%90%D7%A4%D7%99%D7%99%D7%A0%D7%99%20%D7%94%D7%9E%D7%A4%D7%92%D7%A2%D7%99%D7%9D%20%D7%91%D7%9F%20%D7%94%D7%AA%D7%90%D7%A8%D7%99%D7%9B%D7%99%D7%9D%201.10.15-10.2.16.pdf>

armed Israeli police officers opened fire on her, leaving her severely injured. Despite the controversy behind whether she was holding a knife or not, this woman was almost murdered by ten police officers on the basis that her appearance threatened them and made them think she is a potential assailant.

Unfortunately, not many women have survived these shootings to reveal the stories, and those who did survive have been put in military detention.

Female Political Prisoners

For decades, Palestinian society has been forced to deal with the Israeli occupation's repressive measures, including the arbitrary detention of more than 800,000 Palestinians since 1967. Of that, approximately 15,000 have been women.¹⁵ On average, five to eight Palestinian women or girls are detained each month by Israeli Security Forces.¹⁶

Since the Gilad Shalit/*waffa'a el ahrar* prisoner exchange in 2011, in which 1,033 Palestinian political prisoners and detainees were released from Israeli prisons, the number of female political prisoners decreased, and the remainder were transferred to Hasharon Prison.¹⁷

According to the most recent statistics, there are currently roughly 7000 Palestinian political prisoners in Israeli prisons,¹⁸ including 68 females,¹⁹ and 438 children,²⁰ The youngest female prisoner was Dima AlWawi, a twelve-year-old girl who was sentenced to four months in military detention²¹ in Hasharon Women Prison facility—a facility that is not suitable for such young children.

However, the statistics show that the numbers of Palestinian female detainees have

¹⁵ Odeh, S. "Trapped Between Prisons: Palestinian Women in Detention", *MUFTAH*, May 14, 2015. Accessed April 30, 2016. <http://muftah.org/trapped-between-prisons-palestinian-women-in-detention/#.VyaNSvl97IU>.

¹⁶ Ibid.

¹⁷ The Public Committee Against Torture in Israel, Badarneh, H. "From the Testimony of a Palestinian Woman Prisoner." 2013. Accessed April 30, 2016 http://stoptorture.org.il/wp-content/uploads/2015/10/en_women_testimony-2013.pdf

¹⁸ Addameer- Prisoner Support and Human Rights Association, statistics March 2016. Last accessed April 30, 2016: <http://www.addameer.org/statistics>

¹⁹ Ibid.

²⁰ Ibid.

²¹ Dima was released on April 24, 2016 after serving 75 days in prison, read: Ziv, O. "Israel Release 12-year-old Palestinian Girl, Highlighting Dual Legal System, +972, April 24, 2016. Accessed April 30, 2016: <http://972mag.com/israel-releases-12-year-old-palestinian-girl-highlighting-dual-legal-systems/118829/> .

risen significantly since the eruption of the so-called *Third Intifada* or *Individual Intifada* in October 2015. In September 2015, the number of Palestinian female prisoners was 25; in December 2015 there were 60.²²

On average, Palestinian female prisoners of today are younger and politically less experienced than those who were arrested for their political or civic activities during the first Palestinian *intifada* in the late 1980s.²³ They are, as such, in greater need of protection during their imprisonment, interrogation, and detention by the Israeli forces. They are also more susceptible to pressures from Palestinian society, which is generally conservative on gender issues. Also, most female Palestinian prisoners come from lower socio-economic status and come from more conservative family backgrounds that stress patriarchy, and conservative societal norms that mute women's voices.

PALESTINIAN POLITICAL PRISONERS WITHIN THE ISRAELI LEGAL SYSTEM:

First acknowledging the fact that Israel is not only an occupation rather than it embedded in a history of colonialism, as it systematically seizes and expands control over contested land²⁴ and people. In Yeftachel definition of Israeli Colonial state, he explains that Israel is a “pure settlement colonial society,” in which colonization attempts to “recreate a European white society in new geographical setting, a process that often entailed a systematic dispossession and exclusion of indigenous groups.”²⁵ Shalhoub-Kevorkian adds to this definition another layer which she suggests that the type of colonialism the state of Israel is involved in involves among others, manipulation of identities and fomenting of internal division.²⁶ The Israeli state has aggressively used these division tactics with the Palestinian community in large, dividing them into groups of “citizens of Israel”; “West-Bankers”; “Gazan’ and “East Jerusalemites” to further dispose of them to break

²² Supra n.9.

²³ ADDAMEER- Prisoner Support and Human Rights Association. "In Need Of Protection", Palestinian Female Prisoners In Israeli Detention, 2008. Accessed April 30, 2016
<http://www.addameer.org/files/Brochures/palestinian-women-political-prisoners-december-2010.pdf>

²⁴ Yeftachel, O., 2003. Bedouin Arabs and the Israeli Settler State; Land policies and Indigenous Resistance. In Abu Saad & Champaign (Eds.) *The Future of Indigenous People: Strategies for Survival and Development*. UCLA American Indian Studies Center.

²⁵ Ibid.

²⁶ Shalhoub-Kevorkian, N, “The Grammar of Rights in Colonial Contexts: The Case of Palestinian Women in Israel”. *Middle East and Governance* 4 (2012), 110. Last accessed at September 5, 2016:
<http://booksandjournals.brillonline.com/content/journals/10.1163/187633712x631255>

their unity. To understand the politics of the law governing the Palestinian political prisoners requires conceptualizing the politics of law that was constructed to serve the Jewish colonial state.²⁷ The features of settler colonialism can be manifested in three features: the making of the colonizer as modern and the colonized as pre-modern; the eviction of the colonized from the law and civilized space; and the violence present in the colonial encounter.²⁸ That being said, the colonial context has strong implications not only on the legal status of the colonized people, but also on the realization of their human rights,²⁹ by creating a situation where one group of people is privileged and the other is diminished.

The colonized indigenous minority presents an inherent and constant challenge to the legitimacy of the state in the eyes of the colonizer. Therefore they are portrayed as a constant threat to be controlled and confined. The culture of militarization and ethnocentrism build a “security theology” in which the Palestinians are always seemed as enemies and constantly pose a “threat” against which the colonizer must respond defensively.³⁰

In the Israeli-Palestinian context, the term *political prisoner* is rarely used; rather, Palestinian Political detainees who would be considered political prisoners in almost any other context around the globe, are classified as *Security Prisoners*,³¹ and they are considered and labeled a “security threat.”³² According to the Israeli Prison Service (IPS), a *security prisoner*

²⁷ Hajjar L., 2001, Human Rights in Israel/Palestine: The History and Politics of Movement. *J. of Palestine Studies*, 30 (4). 21- 38

²⁸ Razack, S., 2010. A Hole in the Wall; A Rose at a Checkpoint: The Spatiality of Colonial Encounters in Occupied Palestine. *Journal of Critical Race Inquiry*, 1 (1), 90 – 108; Supra n. 17, 111.

²⁹ Supra n. 17, 110

³⁰ Supra n. 17, 117.

³¹ It is important to state that Israeli classification of *Security Prisoners* on paper exclude *Infiltrators* (Palestinians from the west bank who are imprisoned for being captured outside of the 1967 borders without an Israeli permit) from the Security classification, although after the second intifada in 2000 *Infiltrators* started to be recognized as a security threat due to their identity; as mentioned in several cases such as 5198/01 Tala`at Khatib v. The State of Israel ‘the mere fact that terrorists in Israel come from the west bank, is enough to conclude that the staying of every *infiltrator* inside of Israel is considered as a security threat’ (link in Hebrew last Accessed April 30, 2016 <http://www.israel-law.co.il/%D7%98%D7%90%D7%91%D7%95%D7%A4%D7%A1%D7%A7-%D7%93%D7%99%D7%9F-%D7%A9%D7%91%D7%97>); Moreover in my opinion the Palestinian Israeli conflict is not only an armed conflict, the *Infiltrators* resemble the other aspects of the struggle, such as the financial one, or resisting the family reunification bill which bans Palestinians from Israel to marry other Palestinians from the west bank and Gaza.

³² Baker, A. Matar, A. (eds) *Threat: Palestinian Political Prisoners in Israel*. London: Pluto Press. 2001. vii

is

“a prisoner who was convicted and sentenced for committing a crime, or who is imprisoned on suspicion of committing a crime, which due to its nature or circumstances was defined as security offense or whose motive was nationalistic.”³³

From this definition and given the context within which Israel operates, one may easily conclude that term *security prisoner* is a euphemism or secret code for *Palestinian Prisoner*. The identity of the prisoner, and not the offence, becomes the inherent feature and essential characteristic for their classification. This type of classification justifies legalized and codified discrimination and special treatment for this group of prisoners,³⁴ including methods such as brutal arrest, prohibition from meeting a lawyer for a prolonged period of time, solitary confinement, torture and cruel inhuman degrading treatment (ill-treatment), administrative detention, lack of due process,³⁵ and sub-standard prison conditions.³⁶ Moreover, under Israeli law, once being interrogated for ‘security’ suspicions, the subjects of interrogation become classified as a ‘security threat,’ automatically reducing the suspect’s rights because they do not record or videotape the interrogations. Therefore, there will be no record or evidence to substantiate later claims that the detainee was tortured or subjected to ill-treatment.

With its military detention and special categories for Palestinian political prisoners, Israel has created a “human rights-free zone” where it allows itself to breach international norms and international humanitarian law (IHL) protections regarding prisoners, who are not afforded basic due process, including the right to a fair and regular trial,³⁷ as is guaranteed in The Fourth Geneva Convention of 1949. Israel’s military detention system also constitutes breaches of international human rights law (IRHL) expressed in Article 10(1) of International Covenant on Civil and Political Rights (ICCPR),³⁸ which guarantees the preservation of the

³³ *Ibid.*, vii

³⁴ *Ibid.*, viii

³⁵ *Ibid.*, viii

³⁶ Usually in times of interrogation Palestinian interrogates from the west bank detainees are kept in old facilities dating to the British Mandate such as *The Russian Compound* in Jerusalem

³⁷ Article 5 of Geneva Convention IV (1949)

³⁸ International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) (‘ICCPR’).

respect and dignity of the imprisoned person. Also, the Convention Against Torture (CAT),³⁹ customary international law, and *jus cogens* peremptory norms establish an absolute prohibition on the use of torture and ill-treatment, regardless of the political or security conditions of the state.⁴⁰

By classifying the political prisoners as security prisoners, the Israeli legal and military apparatus thereby subject them to an entirely different and discriminatory legal system. Israel's defense for its constant and systematic breaches of the absolute prohibition on torture and ill-treatment, as well as the constant discrimination among the prisoners, is that it must restore and maintain national security.

Widad, Hasharon Prison December 2012

“The conditions in the Sharon prison were very harsh, very hot without any ventilation... even the food is problematic; I don't get the same food as the criminal prisoners do.⁴¹ As an example, I rarely get any fruits and vegetables as other prisoners do.”

This testimony demonstrates the systematic discrimination used against Palestinian detainees. In her words, Widad makes a clear distinction between security prisoners like herself and Israeli criminal prisoners. The discriminatory behavior is seen as further punishment than the actual imprisonment as if the political or security violation has rather heavier ramification on the prisoner than any other criminal violation.

APPLICABLE LAW GOVERNING DETENTION OF FEMALE PRISONERS

The International Court of Justice (ICJ) held in its 2004 advisory opinion that the core human rights treaties Israel had signed were applicable in the oPt. This includes the ICCPR. The court rejected Israel's argument that because it had not annexed the West Bank and Gaza Strip, the Convention was not applicable there. The ICJ held that so long as Israel maintained its military occupation of the oPt, the oPt was “subject to its jurisdiction,” and the territory need not have been annexed by Israel (be “within its territory”) to fall within the scope of IHRL treaties. It also

³⁹Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984. Israel signed the convention in 1986 and ratified it by October 3, 1991.

⁴⁰ See article 3(a) common to all four Geneva Conventions (1949), applicable with regard to non-international armed conflicts.

⁴¹ As discussed previously, “criminal prisoners” tend to be Israelis.

confirmed longstanding and accepted international consensus that the Fourth Geneva Convention applied to the oPt.⁴²

Under international law codified in the Convention Against Torture, customary international law, and *jus cogens* peremptory norms, Israel is bound to the absolute prohibition on the use of torture and ill-treatment. Israel's methods of arresting, interrogating, and detaining Palestinians systematically and consistently violate various norms of international law, including the right for prisoners to have due process and the obligation to provide humane treatment to prisoners.⁴³

Women, however, face special needs in prison and international law – to a limited extent – recognizes this. The Rome Statute of the International Criminal Court establishes an important model for defining sexual and gender-based crimes in international law. The Rome Statute contains a specific reference to gender-based and sexual violence⁴⁴ (GBSV) as a war crime and crime against humanity.⁴⁵ Included in this definition are rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and “any other form of sexual violence of comparable gravity.”

Due to the developments in human rights sphere, and changes in the prison population, there was a greater need for updating IHRL to reflect recent social norms and to maintain gender sensitivity perspective. These developments included adopting “The Standard Minimum Rules of the Treatment of Prisoners”⁴⁶ (SMR) which was ratified by the UN

⁴² The court rejected Israel's argument that Jordan's annexation of the West Bank, largely unrecognized by the world, had not made the territory a High Contracting Party to the Convention. *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Advisory Opinion, [2004] ICJ Rep 7 (July 9, 2004) [hereinafter “*Legal Consequences of a Wall*”]

⁴³ A statement by the Negotiation Affairs Department of the Palestinian Liberation Organization (PLO), *Palestinian Political Prisoners: An Example of Israel's Culture of Impunity*, February 2013:

<http://www.nad-plo.org/userfiles/file/fact%20sheets/Palestinian%20Political%20Prisoners.pdf>

⁴⁴ Nahla Valji, *A Window of Opportunity: Making Transitional Justice Work of Women*, United Nations Entity for Gender Equality and Empowerment of Women. Second edition 2012 p 6

⁴⁵ For Crime Against Humanity, See Article 7(g) and 7(h) of The Rome Statute of International Criminal Court; ; United Nations Entity for Gender Equality and Empowerment of Women, *A Window of Opportunity: Making Transitional Justice Work of Women*. Second edition 2012 p 6; For War Crime, See Article 8(b)(xxii)

⁴⁶ The Standard Minimum Rules of the Treatment of Prisoners, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977

Economic and Social Council in 1957.⁴⁷ The SMR seeks to, *inter alia*, enforce gender sensitivity in prisons, such as providing female prisoners with female guard supervision and holding them in separate units of prison. Another development was UN General Assembly (GA) adoption of the Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, better known as the *Bangkok Rules*,⁴⁸ which focus on engendering justice for female prisoners. The latest development in October 2015 was UN launching the Revised Standard Minimum Rules for the Treatment of Prisoners also known as (The Mandela Rules).

APPLICATION OF THE GENDER-SPECIFIC HUMAN RIGHTS LAWS

Though many of female prisoners' needs are identical to those of men, some are unique to women. This gender uniqueness is manifested in many basic needs, including physical and mental health treatments, hygienic conditions, birth and pregnancy in prison, and special gender sensitivities to clothing, food quality, relations with the outside world, and overcrowding—especially when caring for a baby in prison.

Conditions of Israeli prisons do not accord with international standards or satisfy the special needs of female prisoners, especially those classified as political or “security” prisoners. This conclusion is supported by the Israeli Practice Report 2015 that documented how Palestinian detainees, including many children and women, are kept under harsh conditions that do not meet the international standard rules mentioned above.⁴⁹

In its latest report from November 2015 on the “Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories”(Israeli Practice Report 2015),⁵⁰ the General Assembly stressed that there is grave concern regarding the number of Palestinian detainees including female and

⁴⁷ Resolution 663 C (XXIV) of 31 July 1957, and amended by Resolution 2076 (LXII) of 13 May 1977.

⁴⁸ United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) Adopted by the General Assembly March 2011.

⁴⁹ UN General Assembly's Report of the “Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories” in November 2015. P. 5. Accessed April 30, 2016: <http://www.unwatch.org/wp-content/uploads/2015/11/Israeli-practices-affect-OPT-EJ-4th.pdf>

⁵⁰ Ibid; Speakers Cite ‘Disturbing Evidence’ of Human Rights Violations as Fourth Committee Takes up Illegal Israeli Practices in Occupied Arab Lands, November 11, 2015. Accessed April 30, 2016: <http://www.un.org/press/en/2015/gaspd601.doc.htm>

juveniles in the Israeli prisons. The report instructed Israel to uphold with the Bangkok Rules and the Mandela Rules while dealing with Palestinian detainees.⁵¹

Prisoner Accommodations

According to international law, prisons should provide minimal requirements to ensure that prisoners' emotional and physical health conditions will not deteriorate. The UN Minimum Rules dictate that prisoners' accommodations should meet all the basic health requirements, with special attention to ventilation, minimum space, lighting, and heat,⁵² as well as providing prisoners with a separate bed and clean bed-sheets.⁵³ When referring to female prisoners, some requirements become crucial to maintaining, such as living space, and especially so in times of pregnancy or with a child.

Though the Bangkok rules require a minimum of 3-4 m² of space per prisoner, the European Committee for the Prevention of Torture⁵⁴ suggests a minimum space of 9-10 m² per prisoner.⁵⁵ Israel however, fails to meet these international standards and the adverse effects have a disparate impact on female detainees. Even today and after 20 years of impact litigation and pressure on the matter⁵⁶ to change the IPS regulations, prisoners are still kept in maximum 3m² space per prisoner. It seems that the living conditions of prisoners in Israel will not change in the future, as the latest IPS announcement on the subject in 2013 stated that overcrowding in prisons would not change in the near future as there is currently no approved

⁵¹ Ibid.

⁵² SMR, article 10.

⁵³ Ibid., Article 19

⁵⁴ The European Committee for the Prevention of Torture, formed under the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the committee often visits prison facilities across Europe to oversee the Convention's upholding. European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, E.T.S. 126, adopted 26 November 1987, entered into force 1 February 1989.

⁵⁵ See the reports on the CPT's website, which dictate that the minimal standards obligating states to 4 m² in shared cells and 6 m² in solitary cells. Report on the visit to Greece, 10.1.2012, para. 38; Report on the visit to Bosnia and Herzegovina, 31.1.2010, para. 45; Report on the visit to Slovenia, 15.2.2008.

www.cpt.coe.int

⁵⁶ According to the latest petition submitted by the Association for Civil Rights in Israel (ACRI) 2014 the overcrowded situation in prisons haven't changed despite the NGO's and civil society organizations trials for the past 20 years. At the last hearing of the petition January 2016 the HCJ granted the IPS yet another 120 days to explain the reasoning behind its dereliction. Last access April 30, 2016:

<https://www.acri.org.il/en/2016/01/26/why-wont-the-state-increase-the-size-of-prison-cells/>

financial plan to increase prisoners' living space.⁵⁷

Unhygienic Conditions of Imprisonment

Palestinian women are detained in conditions unsuitable for women's needs. They are often held in very old and dirty prisons, some of them dating to the British mandate period, such as the Russian compound in Jerusalem where many interrogations are conducted.⁵⁸ These prisons lack modern infrastructure and its corresponding hygienic features.⁵⁹ The bathrooms are located inside the small prison cell and usually consist of either a hole in the ground or a dirty and old toilet, where insects can easily access the cell through the drain. Some women even alleged that mice could enter the cell through holes in the wall.

While unhygienic cells may affect all prisoners regardless of gender, women are disparately impacted. Due to the lack of gender-specific accommodations in prisons, personal health and hygiene needs often remain unaddressed. Detained women have alleged to Addameer Prisoner's Support and Human Rights Association (ADDAMEER) that every woman gets two rolls of toilet paper and ten sanitary towels per month, with no consideration of her needs.⁶⁰ As a result, many diseases, especially ones affecting female genitals, proliferate in prisons.

In Palestinian society, women – especially unmarried ones –tend to be very gender specific when referring to a gynecologist, and an internal examination is seen as a last resort.⁶¹ Therefore, the corresponding lack of female gynecologists and ultrasound machines⁶² in the prison clinic contributes to the deterioration of a prisoner's health condition.

The prison accommodation and the unhygienic conditions can be used as leverage of emotional stress against the prisoners, thus punishing the prisoner and the interrogatee even more. Unfortunately, these conditions are not the only ones used against Palestinian female detainees. In 2013, The Public Committee Against Torture in Israel (PCATI) submitted a

⁵⁷ Ibid.

⁵⁸ Supra n. 14. P.26

⁵⁹ Supra 8. Pp. 16-18

⁶⁰ Supra 14. 31-32

⁶¹ Ibid., 48- 51

⁶² Ibid., 48-52

petition to the Israeli High Court of Justice (HCJ 8899/13 Anonymous v Attorney General)⁶³ (HCJ 8899/13) on behalf of six Palestinian female prisoners whose independent allegations plead a systematic use of gender-specific torture and ill-treatment in Israeli prisons. It also described unsuitable detention conditions which worsened their emotional and physical health. The petitioners alleged that they were neither aware of their basic rights as prisoners nor were they were informed of their special rights and protections as female prisoners.

GENDER-BASED VIOLENCE AGAINST FEMALE PRISONERS

When describing the machinery and strategies of colonization; the colonial structure creates and instills fear in the colonized people who are kept in a situation where they cannot defend themselves. In the colonial context, prisons always served as a place to “straighten” the defected figure in society: be it the black, the gay, or the hysterical woman. It always served as a place to implement the political and gendered imbalances in society, where the “man” who represents society or the strong state, is defeating the other.

When referring to the power dynamics between a jailor and a prisoner, regardless of their gender identity – jailors tend to be the oppressive character which represents masculinity. When talking about female detainees, the submissive character of the prisoner becomes more crucial due to the double patriarchal oppression she faces – being at the mercy of the occupying state and the rules of the man represented by the jailor. This subordination resembles the double defeat of herself along with her nation.⁶⁴

In addition to the physical and psychological torture that Palestinian political detainees – male and female – routinely suffer, female Palestinian detainees are more likely to be subjected to gender-based torture,⁶⁵ in Israeli prisons. Female prisoners are usually more aware of the potential threat of being subjected to gender abuse, which makes her feel weaker and more subordinated to the jailors. One constant fear is being seen or even forced to take

⁶³ HCJ 8899/13 Anonymous v Attorney General (24.1.2016). Published in Nevo Database (Hebrew), Accessed April 30, 2016: <http://www.nevo.co.il/search/Highlighter.aspx?type=0#0>

⁶⁴ Shalhoub-Kevorkian, N. and Daher-Nashef, S. Hamoud, S. “Sexual Violence, Women’s Bodies, and Israeli Settler Colonialism”. *Jaddaliyyah* (2014). Accessed April 30, 2016. <http://www.jadaliyya.com/pages/index/19992/sexual-violence-women%E2%80%99s-bodies-and-israeli-settler>

⁶⁵ International Center for Transitional Justice. *Morocco: Gender and the Transitional Justice Process*. 2011. 11-12

off their veils around men, for in Muslim and patriarchal society this constitutes degrading treatment and may be seen as stripping off a shirt.

Punitive measures, such as late-night searches of prison cells, are mainly done by male jailors,⁶⁶ thereby increasing the anxiety and fear of being subjected to gender-based violations.

Samia, The Russian Compound, June 2011

“I was taken to the chaining room or the total supervised room. This room is filled with cameras. There’s even a camera in front of the toilets. I refused to enter the toilets, and then they called the officer on duty who covered the camera with a black plastic bag. The problem remained in that there isn’t any door or a curtain for the toilets, and during that time a female jailor was in the room, so I had to use the toilets in front of her.”

In her testimony, Samia exposes another level of gender-based violations, the exposure of her genitals. Never mind the sexual identity of the jailor, the women felt exposed in a way that she felt the need to stress in her testimony.

In addition to feminist discourse which classifies these violations as sexual violence, the Islamic regulations talks in depth on the prohibition of exposure of one’s genitals to other than the spouses.⁶⁷ Accordingly being exposed to another woman might seen as contradicting to Islamic norms.

Sexual-Torture and Palestinian Social Fabric Leveraging Patriarchal Societal Roles During the Interrogation of Female Detainees

During the interrogation, female Palestinian prisoners are subjected to gender-based and sexual torture or ill-treatment techniques. The allegations of the petitioners in HCJ 8899/13⁶⁸ have pleaded a systematic use of gender-specific torture and ill-treatment against female Palestinian prisoners, including the use of the petitioners’ social background as a tool of leverage against them by Israeli interrogators.

As is Israeli procedure for all security suspects are, interrogations of female Palestinians are not recorded or videotaped. Male interrogators often conduct these essentially

⁶⁶ Supra 14, 39

⁶⁷ Al Quran: AL-MU'MINUN (THE BELIEVERS), (23:5-6): “And they who guard their private parts, except from their wives or those their right hands possess, for indeed, they will not be blamed – “see: <http://quran.com/23>

⁶⁸ These allegations were raised beforehand in ADDAMEER report in 2008, Supra n. 14, and in PCATI’s report 2013, supra n. 8.

secret interrogations. Usually, detainees will have their hands shackled to a chair, while many report being prohibited from using the toilet for several hours at a time after repeated requests, even at the time of menstruation. Some have even been forced to take off their veil.⁶⁹ Once forcibly unveiled, some have reported being threatened with publication of compromising pictures of them⁷⁰ if they refuse to agree to collaborate by informing about fellow prisoners or member of their community, thereby helping the Israeli security forces to map the prison and the Palestinian society.

Many women have testified of being threatened with rape and being subjected to sexual insults from male interrogators, all while being shackled and helpless. Usually during interrogation, while being shackled and helpless, interrogators will position themselves directly next to the female prisoner being interrogated. This alone may cause her to feel threatened and that her body space has invaded. They will usually use sexual insults or gender-based comments to make her feel yet more subordinated.

Samia, The Russian Compound, June 2011

“while being searched and dragged out of my house the chief officer told me, ‘I will make you the biggest slut of [Detainee’s City of Origin]’⁷¹”

“Regarding the interrogation, I suffered a lot during these interrogations. Since the very first night, I was led to the interrogation room, they yelled at me, they cursed me, and these curses were sexually oriented and were very bad, they told me that they would make me ashamed of myself and I won’t be able to show my face in the city ‘*They will make me lower my head to the ground*’”

“The second day after the court hearing, I was interrogated from 14:00 – 18:00, this time the interrogation was different, they suggested I collaborate with them for lots of money in return.”

Widad, Hasharon Prison December 2012

“There were many male interrogators during the interrogation; it was mostly yelling, humiliations and curses...one of the interrogators yelled and told me I was a bitch.”

The cases of Samia and Widad evince how male domination and powers projected throughout the interrogations. The way they are seated in a chair, that they only allowed

⁶⁹ Supra n. 8, 9

⁷⁰ Supra n. 14, 22

⁷¹ Redacted for confidentiality.

answering the man's questions, and that their sexuality and social honor are being threatened, while at the same time used as leverage against them.

Leveraging Patriarchal Societal Roles During the Interrogation of Male Detainees

In his 1974 address to the UN General Assembly, Palestinian Liberation Organization (PLO) chairman Yasir Arafat used metaphors of sexual violence to describe the Zionists' use of colonial methods to "rape the Palestinian homeland and to exploit and disperse its people."⁷² Arafat then gives a clear picture of the enemy who "raped our country," and illustrates the 'honor' of the struggle launched against it.⁷³ Reasserting the continuing perception of the Zionist occupation as sexual in its symbology, the Palestine National Council invoked the image of rape again in the November 1988 Political Communique when it said "Israel showed its real self to be a fascist, racist, colonial-settler country that exists through raping/usurping Palestinian land and exterminating the Palestinian people,"⁷⁴ Thus, as Massad describes it "liberation is staged as a transaction between men over the honor of a woman-mother whose ownership passes through paternity."⁷⁵

The use of the traditional role of a woman's body and societal honor within Palestinian social fabric as a means to leverage and pressure detainees also occurs, perhaps at a higher rate, when interrogating male Palestinians, due largely to the fact that in patriarchal Palestinian society the man is expected to protect and shelter the woman.

In July 2014 as Israel conducted military operations throughout the oPt, Dr. Mordechai Kedar of Bar-Ilan University, an Israeli public university, encouraged the use of Palestinian women's body and sexuality as a weapon of war. On an Israeli radio show, Kedar said, "the only thing that can deter terrorists, like those who kidnapped the children and killed them, is the knowledge that their sister or their mother will be raped."⁷⁶ The reasoning behind this suggestion is that, due to the social fabric of the Palestinian society, nothing would harm the

⁷² Yasir Arafat, Arafat's UN Address to the General Assembly, p. 8. The original Arabic text in *Shu'un Filastiniyya* (Palestine Affairs) (December 1974), pp. 5-19.

⁷³ Ibid, p. 12.

⁷⁴ The Palestinian Liberation Organization, "Al-Bayan al Siyasi" (Political Communique). The official Arabic text is published in *Shu'un Filastiniyya* 188 (November 1988) p. 8

⁷⁵ Supra 1. P. 473

⁷⁶ Kashti, O. "Israeli Professor's 'Rape as Terror Deterrent' Statement Draws Ire", *Haaretz* July 2014, last accessed February 15, 2015: <http://www.haaretz.com/israel-news/premium-1.606542>

man more than harming his honor. As in many patriarchal societies, that honor is defined by the sexual piety and bodily integrity of his female family members.

Discussing the rape of Palestinian women as a military strategy reflects the way colonizers portray colonized women. The presentation of a sexualized Orientalist discourse positions Palestinians as non-human Others.⁷⁷ The abuse of female dignity and social honor to pressure male detainees is a well-known technique in the Israeli interrogations. Many male prisoners represented by PCATI were subjected to the threat of rape of their female family members during the investigations; some even have seen their female family member brought to the interrogation after these kinds of threats.

Mansour, Russian Compound 2012

During the interrogation, while being shackled in his hands and legs on a chair, he describes the following;

“...two of the interrogators standing on my sides, got closer to my ears (almost zero distance), and started shouting very loud in my ears, they shouted my wife’s name and mine, they called me names such as donkey (which refers to stupid people) ... ‘we want to kill your daughter; we will rape your wife, we will demolish your house. ’”

Sami, Kishon Prison (Jalameh in Arabic), November 2014

Sami was arrested from his house at 2 am, during the Operation Brother’s Keeper in the West Bank during the Summer of 2014.

‘They were screaming in my face and spitting on me while being held in this position.⁷⁸ They were using many curses and insults. They even threatened me that they would bring my wife and my mother and *Fuck* them in front of me.’”

“They threatened to bring my wife to the interrogation, which they have. They actually called my wife and ordered her to come to the incarceration facility in Asyoun (Etzion), where they interrogated her, and falsely told her that she would see me there, all while I

⁷⁷ Supra n. 55.

⁷⁸ He describes being held in a torture method called ‘Banana’; In this position, the interrogators allegedly held Sami on a chair, while cuffing his hands sometimes to the front, and other times behind his back. An interrogator would hold Sami’s legs and push them under the seat, while two other interrogators would pull his upper body backwards, until his head hits the floor, then the interrogators would pull him back up from the handcuffs. While in this position, interrogators would press their elbows against Sami’s thighs, and hit him or put pressure against his stomach and upper thighs. Moreover, interrogators would hold his back up until his body forms an arch. It is important to note that, while being held in this position the victim’s genitals are exposed. Sami has alleged that while in this position, interrogators would spit while screaming directly to his face, the interrogators would curse him and threaten to rape his mother and wife in front of him, as well as threatening to rape him.

was held in Jalameh (Kishon). They let me hear her voice over the phone while being investigated. I felt so upset, depressed and I was so afraid they might harm her, especially because she was pregnant.”

These testimonies demonstrate that Palestinian women’s body and social honor was being used as leverage in interrogations even before the statement of professor Kedar in the summer of 2014. This use is neither an aberration nor “a couple of bad apples.”

‘Honor’ in patriarchal societies is solely for the tribe or the society, and a male’s honor is evaluated by the power he has over his family and the ability to control the behavior of his ‘women,’ whether his mother, sister, wife or daughter. The personal honor according to universal standards, as seen in the core international human rights instruments, shifts in a patriarchal society to a societal honor.⁷⁹

Honor as a Means of Social Emasculation of Palestinian Men

The economic, political and security transformations Palestinians experienced under the military regime isolated them from their lands and deprived them of work, which led to revival of traditional practices, including the construct of “honor”⁸⁰ the focus on and the reinvigoration of the notion of “honor” reflects the fact that women’s behavior became the only site of male control in Palestinian society.⁸¹

Israel’s use of threats to dishonor the Palestinian male by humiliating ‘his’ women as an interrogation tactic has its roots in long-held stereotypes of a man’s societal expectations during conflict. In times of conflict, men identify themselves more strongly with masculine stereotypes of the man as the aggressor during wartime; they want to project that image as their roles of the family protectors.⁸² The use of women’s sexuality and social honor as leverage during a male relative’s interrogations is a way of subjugating male Palestinians, to show that he has failed to comply to his socially-expected role of protecting the women of his families—all while the man is shackled and helpless. This is a type of social emasculation for

⁷⁹ Kamir, O. *A question of Honor: Israeliness and Human Rights*. Jerusalem: Carmel. 2004. (Hebrew source).

⁸⁰ Nahla Abdo, *Family, Women and Social Change in the Middle East: The Palestinian Case*. Toronto: Canadian Scholar Press, 1987. Pp. 38

⁸¹ Supra 3. P 42

⁸² Andersen, T. “Speaking About the Unspeakable: Sexually Abused Men Striving Toward Language”, *Am. j. Men’s Health*, 2008.

the male prisoner, who is not capable of defending himself or his honor. In that case, the prisoner both loses the political war and fails to fulfill his domestic duty.

Many scholars such as Catherine Mackinnon⁸³ and Dubravka Zarkov⁸⁴ argue that the nature of the sexual assault is designed by the gender of the victim. Because outright sexual assault is seen as more of a feminine-targeted assault, by attacking the man's societal role, the system can emasculate the men.⁸⁵

The mere use of women's sexuality as threat reflects the common patriarchal and paternalist belief, that women are always vulnerable, submissive and in greater need of protection. Thus, in times of armed conflict, without the protection of men, there is more potential to rape her- therefore it is easy to use this constant fear as leverage against their male companions to emasculate him, especially during interrogation period when he has no contact with the outside world.⁸⁶

Therefore, whether imprisoned or not, because the women's sexuality and social honor can be used against her male family members, every Palestinian woman may be a target of sexual torture.

DETERIORATION WITH NO REDRESS

Society v. Women's right in Using the Legal System as a to Redress to Complaints

As mentioned before, Palestinian female prisoners of today are younger and less politically experienced than those who were arrested for their political or civic activities during the first and second Palestinian *intifada*, therefore they are in greater need of protection since they are not prepared to deal with difficult integration with the Israeli patriarchal prison, nor they are prepared to face their society, since Palestinian women are among the weakest segment of society;⁸⁷ they are least educated, lowest-paid, most unemployed, and have the least political representation. The fact these women broke the out of their traditional role and place, stepped out of the domestic into

⁸³ Mackinnon, C, "RAPE, GENOCIDE, AND WOMEN'S HUMAN RIGHTS", Harvard Women's Law Journal, vol. 17 (1994).

⁸⁴ Zarkov, D. "War Rape in Bosnia: On Masculinity Femininity and Power of Rape Victim Identity", Tijdschrift voor Criminologie 39(2) (1997): 140-151

⁸⁵ Odeh, S. "Sexual Torture Against Men: Present and Desirable Legal Status" (Unpublished). Jerusalem, 2014 (Hebrew source). 10

⁸⁶ Ibid.

⁸⁷ Supra n. 17, 118.

the public—political sphere and even militant in some cases, was not enough to provide them the right to speak out for themselves and be independent. They are also more susceptible to pressures from Palestinian society, which is conservative especially when revealing her story might be seen as threatening her honor. Also, most female Palestinian prisoners come from lower socio-economic statuses and conservative backgrounds that stress patriarchy, conservative societal norms that mute women's voices.

The Case of Ola:

Ola was a former prisoner in her early twenties who had earned a university degree prior to her arrest. During the interrogation and detention, Ola was subjected to sexual harassment by several soldiers. After the release, she lived with her parents in a village in the West Bank. At that time, I (the author of this paper) was her attorney, Ola and I arranged a meeting in the West Bank for her to sign several documents regarding a petition she agreed to take a part of prior to that meeting.

Ola and I had decided to meet at a specific restaurant. When the time came, Ola rushed into the restaurant we agreed to hold the meeting in. When she saw me, she said:

“Quickly, give me the papers to sign, I need to sign the papers before my mother comes in, my parents will not let me take part in the petition, though I want to.”

Unfortunately, she was interrupted by her sister and mother who refused to allow her to take part in the petition. One of her mother's main reasons for preventing her daughter from signing any documents with regards to the petition was that Ola is about to be engaged and subsequently married. She said:

“It is enough that people talk about her due to her imprisonment in the Israeli jails, where she faced god knows what. I do not want this to affect the possible marriage and the future husband's thoughts of her”

In the end, Ola did not sign the papers out of the fear of doing something against her parents will.

In Ola's situation, one can see that Ola's will and choice were not respected. The supposed “honor” of Ola and her family was prioritized over her own will and desires. Her future husband's thoughts of her, which stem from a patriarchal backdrop founded on fundamentally oppressive views of the role of women in society, drowned out her choice.⁸⁸

⁸⁸ Supra n. 17, 129.

Ola is faced with a plurality of oppressive rubrics while creating several identities that even her political contribution did not uplift her from the demeaning role these identities hold—as a female freed prisoner, unmarried, a threat for to her family’s social honor, unheard voice-holder. With such plurality of losses and Israeli daily aggressions, Ola remains in the eyes of the family and society, unrecognized, invisible, voice-less and “threat” to her family’s honor.

As described before, Israeli interrogators can use the conservative and patriarchal Palestinian culture against female detainees. The **H CJ 8899/13** was submitted on behalf of six Palestinian female prisoners whose independent allegations plead a systematic use of gender-specific torture and ill-treatment in Israeli prisons. These female detainees reported that Israeli interrogators often used personal details from their lives as leverage against them. The Israeli authorities could use threats to expose the women within their patriarchal Palestinian society to pressure them. Unfortunately, the very Palestinian society that lauds and creates heroes out of its male prisoners passively takes parts in the further subjugation of its female prisoners.

Ola’s case of facing pressure from her society is not exceptional. Unfortunately, similarly to Ola, many women who have been subjected to torture and ill-treatment were forced by their families to withdraw from the petition because of social restrictions and the fear of hurting their honor or dignity by publishing or exposing their stories. Moreover, many female prisoners have withdrawn from the legal case after it was filed, for fear of being subjected to authorities’ reprisals in the future or fear of not finding a potential husband. Many female victims of sexual torture interviewed by PCATI refused from the start to document their allegations or allow complaints to be filed on their behalf, out of fear of the repercussions within Palestinian society.

As we can see, Palestinian society is partly responsible for exacerbating the suffering of female Palestinian detainees: first, the patriarchal nature of the society creates a system in which personal details can be leveraged and exploited by the Israelis; and second, female detainees are expected to deemphasize the degree to which women are directly impacted by the Israeli detention system. The burden of dual patriarchal regimes leads Palestinian female prisoners to suffer the lasting effects of sexual and gender-based torture without support or redress.

Muting these detainees' voices fuels the discourse of fear produced and engaged by the Israeli state, thus Palestinian women, in or out of the Israeli prisons, remains the most vulnerable group in society, and such vulnerability is only heightened by the systematic failure to include women's voices in the language of rights. In this way, Palestinian women are stuck in a non-ending state of fear of losing their honor and stability.

The result is a difficult situation: Palestinian women have become trapped between the patriarchy of Arab society as well as both patriarchy and an injustice of Israel's occupying forces. As one can see from Ola's example and recent attempts by PCATI to petition the HCJ, these overlapping power dynamics form a vicious cycle that exacerbates the oppression Palestinian women independently face from either system. Listening to such voices shows their awareness of how the unequal and discriminatory distribution of rights and power continues to jeopardize women's lives and wellbeing.

Voiceless and Invisible by the Eyes of the Colonizer

The connection between the state's colonized ideology and treatment of the colonized women inside and outside of prison reveals the effect of fear and colonial control. It produces new ways of control over daily life, space, status, and access to justice for these women. Moreover, presenting the colonized people as "victims" of themselves not of the colonized power project an image of a modern colonial state, civilized and advanced, while indigenous Palestinian community is in greater need of control and assistance.⁸⁹ In that sense, Palestinian women are kept in a very vulnerable and insecure position, they are perceived by the colonizer as in need of rescue from their community, only when it comes to providing them with a sense of security or justice, the colonizer perceive these women as enemies by denying them their rights to justice.

Me No Arabic- You No Victim

In the colonial Israeli state where political detainees are discriminated against by law; female Palestinian detainees do not get any better treatment. Many of the female detainees represented by PCATI have shown despair of the Israeli legal system. Some even stressed that they lost faith in the power of the international laws to prevent egregious Israeli violations of Palestinian rights.

The interrogations of Palestinian female detainees are conducted in Arabic mostly by

⁸⁹ Supra n. 17, 129.

male interrogators under the observation of female soldiers or jailor, unrecorded or videotaped, only recorded on Investigation Protocol sheet. Many female prisoners, especially the minors, are intimidated by the male interrogators,⁹⁰ particularly while being shackled and helpless.⁹¹ However, most of the female soldiers or jailors, who are supposed to provide supervision and some degree of comfort to these vulnerable female detainees, do not speak Arabic. Without video or audio recording of the investigation, victims of torture will be left with almost no proof of their allegations against the perpetrators. However, proof they might have they need to fit into the evidentiary rules, a burden which can most probably traumatize them especially when sexually tortured, and most likely will deny them a fair hearing.⁹²

In the **H CJ 8899/13** the state of Israel disregarded the SMR and Bangkok Rules and stated that, though the ISA kindly allow it, the presence of a female soldier or jailor during the interrogation is not mandatory. Therefore, and despised the ISA kindness of allowing such observation, the attendance of a woman who speaks the language is unnecessary and not applicable.

In its final decision January 2016, the HCJ denied the petitioners quests and decided that there is no necessity for having Arabic speaking female supervision. Judge N. Hendel explained:

“It is enough to have a female in the interrogation room in order to minimize the concern of harassment--- all even though she does not speak Arabic, or cannot follow the exact content of the interrogation [...] It is settled to have attendance of another woman in the room, Arabic speaking only if possible, and all subjected to the ISA considerations”

The HCJ decided not to interfere with the ISA interrogation tactics. In its decision, the HCJ agreed to ignore the plea of having a witness to the potential use of verbal sexual abuse against the interogatee. Therefore, female prisoners are left with almost no support to her allegations, especially in the absence of audio or video records of the interrogation. Having victims’ story disbelieved and transformed into something completely different, is the most disempowering experiences.⁹³ This shows that even the HCJ is eager to provide state actors

⁹⁰ Supra n. 55.

⁹¹ Supra n. 14., 21-22

⁹² Supra n. 17, 130-132.

⁹³ Supra n. 17, 130.

yet more impunity, due to their “fear” of the victim’s identity.

She Has the Right to Know, Not Just Yet

According to the allegations’ raised in HCJ 8899/13 although the IPS or ISA usually provides a ‘Prisoner’s rights brochure’ for detainees, to inform them of their basic rights as prisoners, this brochure, however, lacks gender-sensitivity and are not oriented to the particular needs of Palestinian female prisoners and detainees. In its final decision, the HCJ instructed the attorney general to update the ‘Prisoner’s rights brochure’ and include gender-sensitive approach. Despite that final decision, the brochure has not been updated yet, and female prisoners are still deprived of knowing their basic gender rights as female prisoners.

As it seems, even when the Israeli court does make a decision which could potentially advance the right of Palestinians, especially Palestinian women, these are very often disregarded on the ground of “maintaining security.” Thus, the efficiency of human rights struggle which works within the unjust legal contexts is compromised.

The IPS and ISA regulations fall short of the UN Minimum Rules, as well as the Bangkok Rules and the Mandela Rules. IPS regulations do not provide for special gender sensitivity, and it is likely that they will not participate in the near or medium-term future; as a result, many of the female prisoner’s needs remain unaddressed.

As it seems, the Israeli oppression does not stop at the confiscation of the land, destruction, and demolition of houses, constant separation of social fabric, killing civilians and incarcerating people on a daily basis, but it actually creates new spaces for patriarchal abuses. This patriarchy, which further exacerbated the gender inequities manufactured and promoted by Israel itself, when the colonized state chooses to blame the suppression of Palestinian women on a stereotypical conception of “Palestinian culture.”⁹⁴ all while using stereotypical conception such as “honor” to manipulate Palestinian women and men. Moreover, the Israeli legal system does not serve all backgrounds; it does not consider different realities of those who are not Jewish.⁹⁵

⁹⁴ Supra n. 17, 140.

⁹⁵ Ibid, 143.

CONCLUSION:

Palestinian Female Prisoners: trapped between prisons

Providing a platform for Palestinian female detainees voice's within the dynamics of colonial contexts allows us to shed light on the way such human rights discourse is perceived by those whose basic rights are being violated on daily basis threw the Israeli law that recreate, reinforce, and strengthen the unequal status of Palestinian women in their society. These women voices highlight how their national history still affects their lives, safety and development, and how their social fabric is used by the colonizer as leverage against them, manipulating and demeaning them. Detaching the private from the public politics, not only allows power holders to further divide the colonized people, but also has in some cases provided a convenient alibi for further economic, military, and political oppression.

Listening carefully to the voices of Palestinian female political detainees and freed prisoners, suggests that a feminist-revisionist approach to human rights activism must be informed first and foremost by comprehending the complexities of the nature of human rights in colonial settings, and second by examining practical, judicial interventions and manipulations. Feminist-revisionist analysis of human rights activism suggests that it is only through identifying and understanding the supremacy of the privileged and the visible, in this case, the Israeli colonizer, which one can comprehend how the muted, Palestinian women, is rendered invisible.

Juxtaposing the way, the Israeli legal system marginalizes and other Palestinian female detainees in a total manner in contrast to these females' voices provides us an opportunity to analyze the effect of colonialism, its process, and logic, on women. As it is presented in this research, the Israeli state is far from being feminist and gender progressive, especially when it comes to Palestinian women. The Israeli Security Forces and the IPS regulations fall short of achieving the recommendations regarding prisoner and detainee treatment adopted in the Bangkok Rules, the Mandela Rules, and other controlling international legal documents and regulations addressing the subject.

The security of the states continues to be the main justification of breaching international norms and violations of Palestinian basic human rights. All while the Israeli High Court of Justice does not either interfere or provide minimal protection for these victims.

Even the partial rules and existing regulations that do currently exist and purportedly provide gender sensitivity- whether drafted in statutes and regulations or decreed by the Israeli High Court of Justice—are rarely fully enacted or enforced with regards to Palestinian females in detention.

While on the other side of the prison fence, and regardless of what side of the Green Line one stands, when the Palestinian man’s fear of losing control over “his” women overcomes the fear of staying under occupation or suppression of the government, Palestinian society will not compromise its patriarchal standards that deprive women of equal rights to men within Palestinian society. This inequality even extends to the shared struggle and resistance against the foreign military occupation. Even when conducting a heroic act by herself, female Palestinians are still deprived the right to speak for themselves or even decide what is best for them. Therefore, female Palestinian will still be denied the opportunity to seek justice for crimes committed against them under the occupation and are far from reaching independent autonomy.

Only by understanding such politics and the spiral dynamics of such analysis can feminists and other critical thinkers address the demands of women who live under racism, sexism, and occupation. Mapping and remapping the context in which Palestinian women, especially prisoners and freed prisoners, resist the everydayness of their oppression as invisible and muted, requires that we determine what can be done in a space that fundamentally fears their invisibility and denies their existence.

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