

**Kayan Feminist Organization**

**Submission to the Pre-sessional Working Group for the 88th Session (30th of October to the 3rd of November 2023) of the Committee on the Elimination of Discrimination Against Women (CEDAW)**

Kayan- Feminist Organization (“Kayan”) is a grassroots feminist organization that works to promote human and women’s rights for Palestinian women in Israel. Established in 1998, it takes a bottom-up approach to social change and invests in the field by empowering women to become transformative leaders on local and national levels, protecting and promoting the human and civil rights of Palestinian women in Israel, and breaking down social and institutional barriers to gender equality. Kayan has held Special Consultative Status with ECOSOC since 2018.

**Introduction**: Palestinian women citizens of Israel (PWCI) are part of the national Palestinian minority and comprise approximately 10% of Israel’s population. Kayan believes that their national minority status should be reflected in the Committee’s questions, observations, and recommendations to Israel, and they should not be conflated with other groups of disadvantaged women, therefore we submitted the list of issues and questions to the working group that deals with the following:

**Jurisdiction of Religious and Family Courts:**

Israel continues to impose religious law on **personal status issues**. In the State of Israel, two parallel legal systems govern family law. The legal issues of marriage and divorce continue to be under the exclusive jurisdiction of the religious courts, whereas other legal issues pertaining to personal status such as distribution of property, alimony, and child custody are under parallel jurisdiction of both the religious and civil family courts.[[1]](#footnote-1) In practice, applying different laws and regulations to the parties in a dispute depending on their religious denomination results in different rules and levels of protection in matters of personal status.

According to Israeli law, the Supreme Court has the authority to judicially review religious courts if they exceed their authority, but its involvement in actual practice is minimal. Imposing religion-based family law constitutes a violation of the right to freedom of conscience, freedom of religion, and equality in marriage.

**Discrimination against women in religious courts:**

1. **Sharia Courts**:
2. **Obedience in Sharia Courts:**

Obedience lawsuits are present in most religious laws. According to Islamic Sharia, a wife must obey her husband, who in return pays the dowry and the wife’s expenses. In this lawsuit the husband demands his wife obey him. This experience is humiliating, exhausting, painful, and expensive for the wife. Obedience lawsuits are often filed by husbands against wives who move out of the house, or those who file alimony lawsuits.

Obedience lawsuit procedure is still running. According the 2021 annual report of Sharia courts, 194 cases of obedience were running in 2019, 141 cases in 2020, and 162 cases in 2021.[[2]](#footnote-2)

1. **Child Custody in Sharia Courts:**

The most important consideration in cases of child custody is **the child’s best interests**, but this does not always fare well with religious law. Even though Sharia court is subject to some aspects of Israeli civil law, which specifies that the priority should always be given to the **child’s ‘best interests’**, Sharia courts use two discriminatory caveats that, if fulfilled, effectively strip the mother of child custody:

1. In the case of mother marrying another man after getting a divorce, she might lose her right to custody.[[3]](#footnote-3)
2. The child’s age: according to the Hanafi school of thought used in Sharia courts, a mother has custody over her child until 7 years old if a boy; 9 years old if a girl.

**2- The Ecclesiastical Court:**

Ecclesiastical courts enjoy full independence. Thus, they set the rules of procedure that govern legal proceedings, set the fees for every legal proceeding, and make procedural and substantive decisions. However, most of these legal activities are unpublished and unreported. Ecclesiastical courts also abuse their autonomy in a way that violates basic human rights, while the State – through its non-involvement policy– violates those same human rights that are supposed to be protected under international instruments[[4]](#footnote-4).

* 1. **Discriminatory High Fees:**

The autonomy given to the Ecclesiastical courts combined with the non-regulation policy of the State lead to a flawed outcome, expressed mainly in unreasonably high fees compared with other religious and civil courts, and non-publication or insufficient publication of fees, discounts, and exemption procedures[[5]](#footnote-5). The fees in the Ecclesiastical courts are extremely high compared to the other religious courts. To illustrate the gap; the fee for opening a divorce case in the Sharia court is around 359 NIS (about $105 US) and in the Rabbinical court around 396 NIS (about $116 US), while in the Catholic Ecclesiastical court, the fee is around 6000 NIS (about $1,689 US). This situation has negative implications on Arab women and their right to equality and fair trial.

* 1. **Limited Access to Information:**

The majority of the Ecclesiastical courts in Israel do not make the laws, regulations and rules that they rely on in their judgments and opinions publicly accessible. These legal instruments are crucial not only to the parties (or potential parties) of the proceedings, but also to the attorneys who represent the parties or wish to advise them before turning to the court, in violation to their right to adequate legal representation[[6]](#footnote-6). The fact that the Christian citizens of Israel do not have access to information regarding court procedures constitutes clear discrimination based on religion, and a violation of their right to freedom of conscience and freedom of religion.

**Violation of the Right the civil marriage within Israel:**

Israeli law doesn’t provide for civil marriages, and even spouses married within a civil marriage contract outside the State are still subject to the jurisdiction of religious courts in divorce cases.

Proposed Questions for Israel:

* How does the contradiction between religious and civil law regarding child custody align with the principle of the child's best interest in all custody cases? What measures does the state take to nullify discriminatory laws against women in custody matters?
* What is the available data on these issues?
* Why isn't the possibility of filing obedience claims in religious courts abolished?
* What steps are taken by the the State of Israel to monitor decisions of religious courts in obedience cases?
* How does the state deal with the lack of civil marriages in Israel and what measures are taken to protect the rights of persons who wish to marry without religious restrictions?
* Are there any efforts within Israel to amend legislation and allow civil marriages?

**Gender-based Domestic Violence and Femicide:**

One of the means offered by the state for women victims of domestic violence are protection shelters, where woman in danger, or women subjected to violence, can move to in order to seek protection. However, these shelters face major problems. According to official data, there are 14 shelters, only two of which are designated for Arab women, and two for a mixed population (Arab and Jewish women).

The shelters are operated by civil society organizations, but the privatization policy followed by the Ministry of Welfare leads to inadequate management, as the tenders do not require the applicant to adhere to any feminist values, or a commitment to women's dignity and rights, or even to prove experience and professionalism in the field, and the result is a lack of shelters, and an increase in violence against women. Consequently, Palestinian women lose trust in affecting change through the official authorities and laws.

In its March 2016 report, the Knesset Research and Information Center showed that 54% of Palestinian women have a constant feeling of insecurity and a fear of losing their houses. Thus, most women who are victims of domestic violence do not file complaints to the police.

According to Kayan's study, femicide among Palestinians in Israel has surged recently. From 2015-2020, an annual average of 12 Palestinian women were killed by men. However, from January 2021 to October 2022, this number reached 25, with most perpetrators being partners, ex-partners, or male relatives. The State Comptroller's report criticized Israeli authorities for not curtailing domestic violence and femicide. Palestinian women represent 40% of those in battered women shelters in Israel and 39% of femicide cases, despite being only 20% of the Israeli population. Yet, shelters have inadequate facilities for Arabic speakers. Additionally, there's been a significant increase in homicide within the Palestinian community in Israel. Between 2000-2017, 1,180 Palestinians were murdered, making up 67% of Israel's total homicides. As of 2017, 85% remain unsolved.

**Public Institutions’ role: Systemic Negligence, Inaction, and High bureaucracy:**

Victims’ families confirmed the pattern of **systemic negligence** in Kayan’s research by the Israeli police when it comes to addressing violence against Palestinian women. They observe that the police do not do their job of combating crimes against women, such as providing precautionary protection for women, holding perpetrators accountable, prosecuting offenders, and bringing them to justice. The police failed to act even in cases when complaints were filed long before the murder took place. Families also spoke of a lack of seriousness when police investigated crimes after they occurred, which allowed the criminals to remain free.

Testimonies in Kayan’s research indicated the existence of a pattern of **systemic discrimination based on nationality** within the police department, which stems from the idea that violence and crimes against women are part of Palestinian culture and traditions. Other testimonies addressed the social welfare office’s role in addressing violence. Most accounts confirmed that, in most femicide cases, **the victims were known to social welfare offices prior to the murder**. In some instances, battered women’s complaints were not taken seriously and no protection was provided. Some social workers confirmed that their offices often experienced professional blunders when attempting to support and protect women due to bureaucratic barriers.

The information that the police were legally obliged to disclose to Kayan through a freedom of information request showed that more than a third of the women killed from 2015 to 2018 had submitted a complaint to the police about violence before their murders. Increased complaints were documented, reaching 50% of cases in 2019 and 60% in 2020, [[7]](#footnote-7) but this did not save women from femicide. It highlights the failure of the police in offering protection.

This lack of transparency led Kayan to use legal methods to demand the disclosure of information related to femicide cases in recent years. The police and the Public Prosecutor refused, based on two central justifications: (1) the victim's right to privacy; and (2) the human resources and time needed to search for the required information. This response proved that, in reality, the claim of combating violence against Palestinian women has not translated into any serious practical steps, not even collecting information related to murder cases, let alone drawing the necessary lessons to improve responses. This lack of transparency prevents civil society institutions from investigating the exacerbation of the phenomenon of femicide and from analyzing the underlying causes of law enforcement’s failure to deter crime.

**Lack of Confidence in Israeli police:**

In Kayan’s research, families highlighted the political context, especially when it comes to the lack of confidence that Palestinians have in Israeli police, when explaining their fear of confronting violent men. This fear is based on the reality that the police often fail to investigate leads and leave criminal offenders at large. Between 2015-2020, only 34 indictments were made in 73 cases of femicide in Palestinian society[[8]](#footnote-8). A survey conducted in 2021 indicated that only 13% of Arabs surveyed trust police institutions as opposed to 42% of the Jewish people surveyed[[9]](#footnote-9). These results are consistent with Kayan’s conclusions, based on correspondence with the Israeli police, that the police do not have information about protection orders and therefore are not able to protect women for whom protection orders have been issued. The police only react when after a murder has occurred. As stated above, over the past three years around 50%-60% of the victims had filed a complaint with the police before they were killed.

**Sexual Harassment:**

The Sexual Harassment Prevention Law of 1998 and the regulations to prevent sexual harassment demands specify the employer’s responsibilities in the enforcement of the law, requires the employer to designate a sexual harassment appointee at workplaces. However, the law is deficient, because there is no requirement or regulation about the ratio of the appointee to the employees, no financial remuneration associated with the appointee position, no professional criteria required for appointment, no work procedure, and no budget dedicated to deal with sexual harassment at the workplace. Moreover, no enforcement supervision system has been established.

The Israeli police is not prioritizing the issue of sexual harassment and do not address it in an appropriate way. The police do not provide culturally and gender sensitive gender-sensitive ways or plans of treatment, to prevent sexual harassment and handle the cases appropriately.

Violence against Palestinian women in Israel creates a serious threat to their safety and security.

**Amending the Counter-Terrorism Law of 2016:**

The Israeli Knesset approved a proposal at the beginning of August 2023, considering sexual crimes as acts of terrorism if they have a nationalist motive. The perpetrators of such crimes will be punished under the 2016 Counter-Terrorism Law, with penalties being multiplied compared to the standard penalties for sexual assault, as outlined in the proposal.

Introducing a nationalist element into the prosecution of sexual crimes and defining them as acts of terrorism aimed at exploiting women's bodies, their cases, and violations against them, results in discrimination against Arabs and imposes a doubled penalty on Arab perpetrators of the same crime. This undermines the purpose of holding offenders accountable for their actions against women, regardless of their identity or affiliation.

This discriminatory law does not aim to protect women or deter offenders. Instead, it represents a form of discrimination against Arab citizens. The law essentially means that the perpetrator of a sexual crime will face a harsher penalty if they are Arab and if the victim is Jewish. In other words, this law, under its pretext of security concerns, starkly differentiates between Arab and Jewish women, even in cases of pain and sexual crimes.

Achieving justice should involve holding every criminal accountable, regardless of their identity or affiliations, without consideration for their belonging.

**Proposed Questions:**

* How many protection shelters are there in Israel and what is the breakdown in terms of shelters designated for different populations, such as Arab women or a mixed population of Arab and Jewish women?
* What steps or policies are being proposed or implemented by the Israeli government to address the lack of available places for Arabic speakers in shelters and the rise in homicide cases within Palestinian society in Israel?
* Does the Israeli government have a plan to deal with the homicide cases among Palestinian victims in Israel, and what are the efforts made to resolve them?
* Does the state of Israel have a plan for what steps it takes to deal with challenges that arise from the lack of an enforcement of a supervision system for sexual harassment prevention in the workplace?
* How does the Israeli police handle cases of sexual harassment, and issues raised in terms of cultural and gender sensitivity?
* Can the state of Israel provide an explanation on the recent approved law, which considers sexual crimes as acts of terrorism and imposes penalties under the Counter-Terrorism Law?
* What is the purpose of this law, and how does it align with the goal of holding offenders equally accountable for their actions against women?
* How might this law affect the perception of justice for victims of sexual crimes, particularly in cases involving individuals from different ethnic or religious backgrounds?

**Women in Politics:**

Palestinian women in Israel live in a complex socio-political environment in which they are both a marginalized minority in an oppressive and increasingly nationalistic Jewish state as well as women in a patriarchal society. On the one hand, patriarchal societal norms relegate women to the domestic sphere and systematically exclude women from participating in the public sphere, from the level of social circles and workplaces to the level of local politics. On the other hand, state-based discrimination such as the 2018 Basic Law that declared Israel as the nation-state of the Jewish people, persistently relegates Palestinians to a second-class status, which contributes to a shrinking space for Palestinian civil society.

Because of active and continued discrimination, Palestinian society deeply mistrusts state institutions and national political bodies. Therefore, politics on a local level, including in the local authority, is much more important and relevant to Arab society. Local government is particularly impactful on the lives of women, as women are most likely to directly interact with local governmental services, such as public transportation, child educational services, child care, or protective services against violence. However, women are rarely part of the decision-making process on policies governing these services.

Currently, Palestinian women make up less than three percent of local council members in Arab localities in Israel. This heavily disproportional representation leaves Palestinian women vulnerable, as male-dominated, and patriarchal political bodies rarely address women’s needs and do not advocate for their security or well-being. In fact, local councils are widely understood to be corrupt, incompetent, and self-interested because they are based in the interests of politically powerful families and religious groups, instead of serving the democratic values of gender-mainstreaming, transparency, or accountability to the public. Issues such as gender-based violence, women’s health, and women’s social security are easily ignored by politicians who have little incentive to include women’s concerns in their political agendas or budgets.

Furthermore, there are currently no Palestinian women who serve as head of a local council, and to date, only a single woman has ever headed an Arab locality. Part of the problem is that local elections are often disproportionately influenced by family affiliations and religious interests.

**Proposed questions:**

* Are there any initiatives or efforts aimed at increasing the representation of Palestinian women in local councils and addressing these challenges?

\**Kayan agrees that this submission can be published on the OHCHR website for CEDAW for public information purposes.*

1. Rabbinical Courts Jurisdiction Act (Marriage and Divorce) (1953); The Druze Religious Courts act (1962); The King’s Order-in-Council of 1922-1947, Article 54(1) and (2). [↑](#footnote-ref-1)
2. Submission by Kayan to the Human Rights Committee, 134 Session Israel’s fifth periodic review Under ICCPR: <https://www.kayanfeminist.org/sites/default/files/publications/Submission%20by%20Kayan%20to%20the%20ICCPR%20134%20Session-Fainal.pdf> [↑](#footnote-ref-2)
3. Kayan Possession Paper: CHILD CUSTODY AND SECOND MARRIAGE LAWS:

   <https://www.kayanfeminist.org/category/personal-status?page=2> [↑](#footnote-ref-3)
4. The International Covenant on Civil and Political Rights, art 26 [**ICCPR**]. [↑](#footnote-ref-4)
5. It should be noted that the Sharia and Druze courts form part of the Ministry of Justice and both publish the cost of litigation fees on the Ministry of Justice’s website: (http://www.justice.gov.il/Units/BetDinDroziLerorim/Pages/Hipush-Piski-Din.aspx ), (http://www.justice.gov.il/UNITS/BATIDINHASHREIM/Pages/Hipush-Piski-Din.aspx [↑](#footnote-ref-5)
6. The International Covenant on Civil and Political Rights, article 14 of [ICCPR]. [↑](#footnote-ref-6)
7. The information is derived from the Public Prosecution’s response to the petition of Kayan against the Police (administrative petition 20-12-56305), which was submitted to the court on April 20, 2021. [↑](#footnote-ref-7)
8. According to data that Kayan received from the police. More information is available in the press release: <https://bit.ly/3zkSVAL> [↑](#footnote-ref-8)
9. A research conducted by the Institute for Zionist Strategies shows that between 2003-2017, public trust in police institution among Palestinian citizens has been declining, and in 2017, 61% of them were not satisfied with the police activity in their towns as opposed to 54% of Jewish citizens. The research reviewed surveys about public trust in Israeli police among Palestinians over 15 years. A summary in English available in the link: <https://www.izs.org.il/2019/01/law-enforcement-in-the-arab-sector/>. For the full report (Hebrew) see the link: <https://bit.ly/3SbMubT> [↑](#footnote-ref-9)