Femicide and the Palestinian Criminal Justice System: Seeds of Change in the Context of State Building?

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Despite the criminalization of abuses inflicted upon women, laws are still considered major sources of women's oppression. This article discusses how Palestinian society and its criminal justice system, during a politically formative period of state building, relates to "femicide." Femicide in this study pertains to the murder of girls or women for allegedly committing "crimes of family honor." Official statistics, Cassation Court rulings, and six documented cases were analyzed in depth to determine the role played by the penal code, the legal system, and the external sociocultural context in exonerating the perpetrator of femicide and placing the victim on trial. The data reflect a silent masculine conspiracy that empowers sexist and gender-biased legal policies. The article concludes by challenging Palestinian legislators to fight legal discrimination against women. It argues that state-building periods can be a "window of hope," offering societies such as Palestine's the unique opportunity to reexamine and reconstruct their laws from a gender-sensitive position.

Introduction

The killing of women for reasons related to their perceived or actual misconduct is not a neoteric historical phenomenon; femicide is as old as patriarchy. Females continue to be killed because of their gender, despite the emergence of increased tolerance and sociopolitical and legal changes. Notwithstanding recent efforts in many societies to control violence against women through criminalization of such abuses and modification of legal systems and codes, policymakers and criminal justice professionals continue to be influenced by the sociopolitical, patriarchal legacy of the formal legal system, as well as the cultural and political context of informal legal codes (Merry 1995; Shalhoub-Kevorkian 1999a, 1999b, 2000a, 2000b). Stanko (1985) has

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shown that the law is gender-biased, particularly in the context of crimes of violence against women. Legal personnel involved in prosecuting such crimes, the criminal proceedings themselves, and even the families of victims, continue to be prejudiced in this respect.

In Palestinian society, as in many Arab countries, femicide may occur in response to "crimes of honor"; that is, actual or perceived behavior of girls and women, generally involving their sexuality, considered socially and culturally taboo. As such "immoral" behavior is believed to tarnish the honor of the woman's family, femicide in reaction to "crimes of honor" is usually committed by her relatives. As will be shown, the sociocultural roots of this phenomenon are so deep that the Palestinian legal system fails to deter it, blaming the victim rather than the perpetrator.

In the context of an ongoing struggle for the liberation and economic and political independence of Middle Eastern women, there are signs of resistance to sociocultural norms that encourage violence against females (Afshar 1993). Notwithstanding the sexism of certain legal policies and codes, the law has been a major tool that can also support women in their fight against social inequality and gender discrimination. Indeed, the legal system has contributed to change in the social and political perception of and reaction to violence against women.

This study is based on official statistics, court rulings, and an in-depth analysis of six legal records of femicide cases. The latter reflect the narratives of cases in which Palestinian women were killed in the name of cleansing the "tarnished honor" of their families. Herein, I consider the position of the Palestinian society's legal system toward these crimes of violence against females. In the context of the politically formative period of state building and of resistance to various forms of oppression, the study questions whether the Palestinian legal system can be reconstructed in a gender-sensitive manner. In other words, can the state-building process and the aspiration to construct a democratic society promote legal and social human rights and protect women from "legalized" violence (Abdo 1999; al-Rais 2000; al-Saadawi 1993; CEDAW 2001; Dara'awi & Zhaika 2000)?

Theoretical Considerations

Culture, Masculinity, and Crimes Against Women

Recent scholarly efforts by Messerschmidt (1993) have demonstrated the relationship between violent crimes against women and the construction and reinforcement of masculinity. The sexuality of women and the violence perpetrated against them are considered a public representation of masculinity, and masculinity serves as a socially constructed sexist mechanism of

control and objectification (Edwards 1981; Smart 1995). Historical researchers (e.g., Browning 1991; Dower 1986), too, have shown that masculinity becomes a key issue in the dehumanization of "others" (women, in this study). Moreover, the values, norms, and practices of the masculine culture interact with ethnicity, race, religion, or any other affiliation. Hence, masculinity extends into the organization of private life and into cultural and political processes. Female victims of masculine cultural values are judged in a gendered and gendering manner (Mahoney 1991; Stanko 1985).

Studies of the relationship among masculine mechanisms, male power, and legal practices have pointed to a legal double standard for men and women, for instance, in respect to sexual morality (Brownmiller 1975; Edwards 1981). MacKinnon (1982, 1983, 1987) challenges the concept of the neutrality of law, claiming that it reflects the power of males to objectify the world. Examining the relationship between women's sexuality and the law, Smart (1995) emphasizes that discourses on sexuality are constitutive of gender-biased social processes that have social consequences. One of the main discriminatory mechanisms to change or reform women's behavior is the use of discourses that create norms of behaviors against which other behaviors are judged. Such discourses create legally and culturally acceptable discrimination.

The Legal Codification of "Crimes of Honor"

The preservation of women's purity and honor is one of the most important cornerstones that shapes and constructs the social profile of the Arab family (al-Saadawi 1990; al-Samman 1976; Barakat 1985; Dwairy 1998; Mernissi 1982; Timimi 1995; Warnock 1990). "Arab women, according to the ideal model, are expected to abstain from any kind of sexual practice before they get married. The hymen, in this context, becomes the sociophysical sign that both assures, guarantees, virginity and gives women a stamp of respectability and virtue" (Abu-Odeh 2000:370).

Requiring virginity in women as a regulatory practice of gender exceeds the physical/biological body and is reproduced onto the gender political body. Thus,

> the hymen becomes displaced from its biological vessel, the vagina, onto the body as a whole, "hymenizing" it and producing it as a body called female. But then it is displaced again onto the social space where the female body is allowed to move/be, encircling it as a social hymen that delimits its borders. (Abu-Odeh 2000:371)

A "crime of honor" occurs when a woman crosses any of the bodily, physical, or social borders. Women are killed not only because they fail to bleed on their wedding night but also if they

dishonor and shame the family by, for example, conversing with a man, smoking, coming home late, or engaging in a romantic relationship (al-Khayyat 1990). Any violation of this very elastic definition of honor is guarded and supported by the institution of "gossip and rumors" or the culture of "female reputation." Thus, the "hymenization" of women's sexual, physical, and social life has been translated in some instances into legitimizing acts of violence against women, turning these acts into "protective" behavior rather than criminal actions. Although legal codes label such behavior as crimes, it is the female victims who are invariably blamed for the abuse of these strictures and who are often killed as a result.

How to deal with femicide resulting from violent efforts to uphold the "family honor" has been a major challenge to Arab (e.g., Palestinian, Lebanese, Jordanian) legislators and policymakers (Abu-Odeh 2000; Moghaizel 1986; Moghaizel & Abd al-Satar 1999; Shalhoub-Kevorkian 2000a). Existing laws in most Arab countries do not deal seriously with crimes perpetrated by family members against women, which are considered private rather than social or public issues. Women's equality in Arab judicial systems continues to be a controversial issue. The behavior of Arab women is scrutinized in accordance with the social roles and sexual restraints that are expected of them.

For males, reduced punishment, and even exemption from it, for killings motivated by "crimes of honor" is built into the Jordanian Penal Code, which is the code applied in the West Bank. Article 340 of that code (Law 16, 1960), the first article of three in a section entitled "Excuse in Murder" states the following:

> He who surprises his wife or one of his [females] *mahrams* committing adultery with somebody [*flagrante delicto*], and kills, wounds, or injures one or both of them, shall be exempt from liability [*udhr muhill*: literally, "shall benefit from the exculpating excuse"].
>
> He who surprises his wife, or one of his female antecedents or descendants or sisters with another in an unlawful bed, and he kills or wounds or injures one or both of them, shall be liable to a lesser penalty in view of extenuating circumstances [*udhr mukhaffaf*: literally, "shall benefit from the mitigating excuse"]. (Welchman 1999)

It should be noted that only males (i.e., husbands and male blood relatives) can be exempt from penalty or benefit from a reduced sentence; a wife who kills her spouse after "surprising" him in the act of fornication with another female cannot benefit from a "mitigating excuse."

The historical origin of Article 340 is twofold: the Ottoman Penal Code of 1858 and the French Penal Code of 1810 (for more details, see Abu-Odeh 2000). Similar legal codes that ex-

cuse males for committing violence against their female relatives who have allegedly engaged in "unlawful" acts are found in most Arab societies and in such countries as Turkey, Spain, Portugal, Italy (abolished in 1979), and France (abolished in 1975). Most Palestinian jurists borrow their interpretation of "honor" and "crimes of honor" from the Egyptian or the Jordanian jurisprudence, making them models or points of departure. They use Cassation Court decisions to support their examination of honor without even bothering to question or attack it (Abu-Odeh 2000). This custom is further complicated by a legal system in which the formal state/civil law in respect to females is interwoven with customary unwritten law and religious *sharia* law (covering issues of personal status, such as marriage, divorce, and inheritance), where vested interests often determine which set of laws will be applied (for more details, see Wing 1994). This practice has perpetuated the use of masculine patriarchal powers, undermining the political and social development that Arab societies in general (Moghaizel 1985), and Palestinian society in particular, are undergoing.

State Building, Patriarchy, and Violence Against Women

In the 1990s, Arab human rights and feminist activists began to address the abuse of women (primarily crimes of honor committed against them) as an issue in need of reexamination at the social, political, cultural, and legal levels. Consequently, major changes took place in the social discourse of Arab women and human rights activists in the mid-1990s (1995–1996). For example, efforts were made in Jordan to combat such crimes, calling for changes in the reaction of the legal system (Abu-Odeh 2000). Simultaneously, lawyers in Jordan representing various women's organizations worked intensively to redefine (increase) the punishment allowed in cases where an offender committed a crime related to honor. Similar efforts were initiated by lawyers in Lebanon in the mid-1970s, although their efforts did not bear fruit until 1998 (Moghaizel & Abd al-Satar 1999).

In Palestinian society, the struggle for women's rights for defense against crimes of violence takes place against a complex backdrop of state-building politics and resistance against oppression. In Palestine, although the struggle against abuse of women began at the turn of the 20th century, it peaked following the onset of the Intifada (uprising) at the end of 1987 (Dajjani 1998). Various women's and human rights organizations began to address the issue of women's rights, scrutinizing the existing legal code to determine its degree of congruence with the newly constructed sociopolitical atmosphere of respecting Palestinian national and human rights (Abdo 1999; al-Haq 1989; Khader 1998). Rosemary Sayigh (1992:19) has argued that women's is-

sues were politicized within the Palestinian national liberation movement: "Social changes adopted as part of national struggle are the main legitimating context for women's individual struggles." Acceptance of Sayigh's thesis is related to the symbolic empowering image granted to females as the mothers of the nation—an image that has been reinforced by the cultural and political discourse of the Palestinian Authority (PA).

Abdo (1999) suggests two basic theories for analyses of gender-based politics in the PA that aim at constructing the Palestinian state. The first hypothesis consists of a feminist structural analysis that considers the role of socioeconomic and political forces in shaping gender relations and the state. Proponents of this theoretical perspective are rather pessimistic of the potential for women's liberation and equality in the Middle East, arguing that the state and the elite (mostly male) economic and political power represses women's agenda, and often exploits that agenda to suit its own purposes. Advocates stress that the low legal status of women, and their misrepresentation in politics and decision-making processes, has a negative effect on the position of women. A contrasting theoretical perspective is the agency-based approach (adopted by feminist activists), which focuses on the lived experience of women, emphasizing the ability of the individual woman to bring about legal, economic, and social change at institutional and structural levels.

A scrutiny of women's status in the PA reflects the effect of traditional patriarchy and its manifestation within political structures. The PA's political appointments are motivated by party politics involving allegiance based on clan or tribal affiliation. Such appointments have the potential to endanger the status, liberty, and equality of women. Despite the political legacy of Palestinian society and the context of occupation, including the ongoing political struggle that makes the political legacy take precedence over patriarchal tradition, a breakthrough in women's sociopolitical and legal power does not appear to be on the horizon. Women remain "hymenized" and subjected to the traditional structure of male domination and supremacy (Taraki 1997).

This research looks at how the formal legal system in the PA responds to crimes that end the lives of females for the sake of "family honor," with the aim to uncover underlying sociocultural, patriarchal, and political factors that affect legal treatment of femicide cases. In light of our findings, we can ponder whether Palestinian reformists can begin to promote national goals declared in the Proclamation of the Independent Palestinian State (issued by the 19th session of the Palestinian National Counsel, Algeria, 15 Nov. 1998) and grounded in women's human rights.

Method

Sources of Data

This article is based on larger action-oriented research, conducted in 1999 in the West Bank (Palestine), that attempted to map and analyze the landscape of femicide and "crimes of honor" in Palestinian society.[1] Herein I focus on one part of that research, namely, legal and criminal justice.

The data that were analyzed were compiled from the following sources:

1. Official statistics of two types: (a) data provided by the Palestinian police on cases labeled as "honor crimes" over the period 1996–1998, and (b) data collected from the District Attorney's files in regard to the killing of females over the same period in the West Bank.
2. The Jordanian Penal Code (Law 16, 1960), particularly those codes related to "crimes of honor."
3. The decisions of the Jordanian Court of Cassation regarding cases of femicide (mainly regarding "family honor") in the West Bank, published officially during the period 1967–1981. These rulings are routinely raised by attorneys in cases of "crimes of honor" pled in local courts (Hatu & Nashashibi 1987).
4. Attorney files of six femicide cases involving "crimes of honor" in the West Bank (1993–1997).

It should be noted that a request to review the actual records of the criminal courts was turned down. In the absence of such data, I was unable to determine the number of actual femicide cases adjudicated in the West Bank. The attorney files, however, reflect the verbatim decisions of courts throughout the West Bank. Although the records obtained are not a truly representative sample from a rigid statistical perspective, this sample of convenience is adequate for the following reasons:

1. The sample was derived from attorney files representing different geographic regions of the West Bank.
2. The records were subjected to qualitative in-depth content analyses, using the interpretive collaboration method (see more below), rather than quantitative analyses. Hence, validity was derived from the "credibility" of the analyses, the patterns that evolved, and the scrutiny with which the data were examined.
3. The analyses were performed by a large group of Palestinian men and women from varying social and professional backgrounds. The main research team comprised a psychologist, a criminologist, a lawyer, a social worker, and a human rights and political activist. This team was assisted by staff members of the

[1] This larger research study was conducted by the author at the Women's Center for Legal Aid and Counseling, Jerusalem. For more details, see Shalhoub-Kevorkian (2000a).

Women's Center for Legal Aid and Counseling (WCLAC [three social workers, three lawyers, and three professionals who work on human rights and gender-related issues in Palestinian society]), and by outside consultants (two judges and four attorneys, including the District Attorney).

Method of Analysis

This study is historically positioned and locally situated, and its meaning is "radically plural, always open and . . . there is politics in every account" (Bruner 1993:13). Therefore, it cannot be considered a politically neutral study. Participants in the process of data gathering and analyses (the research director, the research team, the Center staff, and the consultants) expressed their opinions and offered analyses of how femicide cases are handled by the criminal justice system. Such opinions and the accompanying attributions of responsibility have deep roots in each person's gender, culture, economic background, and political context. The position of the participants in the social hierarchy, their degree of political involvement, and the degree of influence exerted upon them (particularly upon the attorneys and judges) by social and political colleagues and supervisors affected their analyses of the studied crimes (Acker et al. 1983). In short, the "positionality" (Abu-Lughod 1991) of the research director (Palestinian female) and of all participants in the study made it difficult to speak in a totally "neutral" and "scientific" manner: "[I]t is impossible to speak in a 'meta-Voice' that transcends its social context and somehow distinguishes itself from the character/voices about which it wishes to make an observation'" (Engel 1999:12, citing Woolgar 1988). Thus, it was doubly important to be cautious in interpreting results.

In an attempt to deal with this situation, the research director (author) openly discussed varied interpretations of the cases, allowing each participant his/her say in regard to the written and documented material (Acker et al. 1983). This sharing of different positions enriched the results. As a validity check, I submitted drafts of early analyses to legal and social scholars in Palestinian society, local feminists, human right activists, and criminal justice personnel.[2] Thus, the following analysis is the result of interpretive collaboration with these various informants.

As part of the larger action-oriented study, the research team met once a week for a period of 12 months, during which they discussed the gathered data and pointed out the main gender biases and discriminatory practices. As the court decisions and the information passed on to us by the attorneys of the analyzed

[2] The study was reviewed by and discussed with legal scholars, such as Lynn Welchman and Ghassan Farramand, as well as women activists and/or feminist researchers Zahira Kamal, Rima Hamami, Lisa Taraki, Lamis Alami, and Maha Abu-Dayyah.

cases were limited in scope, we frequently returned to those attorneys for clarifications and explanations.

Findings and Analysis

Official Statistics: Police Data

Data from the Palestinian police on cases labeled as honor crimes in the West Bank and Gaza Strip refers to a total of 33 cases of femicide over the period 1996–1998 (Table 1).

Table 1. Distribution of "Crimes of Honor" by Age and Region (West Bank and Gaza Strip), as Provided by the Palestinian Police, 1996–1998

		Region		Age	
Year	Total	West Bank	Gaza	Mean	Range
1996	15	5	10	20.5	13–32
1997	10	2	8	28.7	18–50
1998	8	3	5	30.6	14–50

Note: An additional five cases were documented during the first six months of 1999.

According to the table, the prevalence of femicide decreased by nearly one half (46.7%) from the base period of 1996 (but see contrasting DA data below). Femicide appears to have occurred in the Gaza Strip (69.7%) with greater frequency than in the West Bank (30.3%). Furthermore, the data depicted in Table 1 show that females of all age categories (adolescents, young adults, and middle-aged adults) were killed for reasons of honor.

The police also supplied information about the relationship between the offender and the victim. In all the cases in question, the offenders are close relatives (e.g., fathers, brothers, husbands, uncles) of the victim. Furthermore, the data show that the crimes were sometimes committed by more than one offender.

Official Statistics: Data from District Attorney Files

Despite the full cooperation of the District Attorney in the West Bank, and because a great deal of information was missing, and the classification of crimes was ambiguous, the researchers experienced difficulties in extrapolating data from the documentation available in the DA files on "deaths resulting from suspicious circumstances and criminal acts."[3] Often, the gender of the victim was not explicitly stated and had to be inferred by the victim's name or by grammatical usage (when in doubt, the case was excluded). Our review of the files did not yield a single crime classified as a crime of honor. Rather, the three categories used

[3] The law applied in the West Bank differs from that applied in the Gaza Strip. We therefore decided to concentrate on the West Bank in the current study, with the aim of dealing with Gaza in the future.

were "Fate and Destiny" (*qada' wa qadar*), "Murder," and "Unknown" (Table 2).

Table 2. Distribution of Reported Deaths (Suspected Femicides) in the West Bank, as Extrapolated from District Attorney Files, 1996–1998

Year	Fate & Destiny	Murder	Unknown	Total
1996	60	10	6	76
1997	74	11	3	88
1998	100	7	2	109
Total	234	28	11	273

Note: Cases in which the gender of the deceased could not be inferred were not included in the table.

The category of Fate and Destiny, which covered 85.7% of the total number of female deaths in the files ($N = 273$), is enigmatic.[4] In interviews with the author, the DA and his deputy defined "Fate and Destiny" as

> an act that is not attributable to any premeditated or intentional human act, but is a result of, for example, old age, stroke or accident that was not caused by any person. Thus, in this category, there is no suspicion of a criminal act, or human interference or action. The DA's office or prosecutors are delegated to determine if the case is attributable to fate and destiny, mainly when realizing that no party is liable.[5]

However, in a workshop attended by both the author and the District Attorney, the latter, in the presence of the majority of prosecutors from the West Bank and Gaza, stated, "This category is problematic. There is a discrepancy in the way various prosecutors use it. . . . It is more than possible that it was used to cover up legal or social hardship stemming from honor crimes."

The elasticity of this category might stem from the Muslim belief that all events are ordained by God rather than willed by human beings. We could also assert that the concept is a legal one, because it is similar to such legal categories as "death by misadventure," i.e., without criminal liability. The motive behind the use of such a broad legal classification scheme is worthy of further study.

As to the category "Unknown," the interviewees (the DA and his deputy) defined it as "Somebody committed a criminal act that caused the death of a person, but his identity is not known to the DA. Here there is a need to keep on searching for the offender so that justice can take its course. In such cases the file

[4] Interestingly enough, the number of male deaths attributed to Fate and Destiny ($N = 425$) was far greater than the parallel number for females ($N = 234$). It is possible that many of the male deaths resulted from occupational accidents; Palestinian men far outnumber Palestinian women in the work force, especially in hazardous occupations, such as construction.

[5] The interview was conducted in Ramallah on 7 June 2001 with Salah Mana'a, the DA's representative, as District Attorney, Asa'ad Mubarak was on extended sick leave at the time. Mubarak approved this definition at a later time, however.

is kept active, and is closed only after ten years owing to the statute of limitations." In this category, somebody is liable for the act, but the DA cannot determine who the actor is.

The DA's use of ambiguous concepts to characterize cases of "suspicious deaths" of females is in sharp contrast to the honor crimes documented in police records. This discrepancy is compounded by wide differences in numbers: Whereas police records pointed to 10 cases in which females were the victims of honor crimes, in the West Bank, official DA files recorded 234 cases of female deaths from "Fate and Destiny," 28 cases of "Murder," and 11 deaths for which the cause of death or killer is "Unknown." The number of deaths actually related to crimes of honor can only be speculated. It is clearly possible that femicide cases are being embedded in other forms of documented or undocumented deaths.

Descriptive Data of the Six Femicide Cases

Despite the existence of Article 340 (see above), which specifically excuses males for inflicting violence on female relatives who commit crimes of honor, so long as the perpetrators adhere to the stringent criterion of catching the "unlawful" women in the act, the following documented cases invoke more general articles, which do not have such strict stipulations. Thus, the males in our case studies who committed femicide were tried under Article 326 (intentional murder) or Article 328 (premeditated murder):

> He who kills a person intentionally shall be punished for 15 years of imprisonment with hard labor (Article 326, 1960).The one who kills intentionally shall be sentenced to death [however,]
> 1. if the act was committed with a premeditated intention to kill;
> 2. if it was committed as a preparatory method to allow the occurrence of a felony, or to help co-conspirators or provocateurs of such felony, or to prevent them from being punished; [or,]
> 3. if it was committed against one's antecedents (Article 328, 1960).

Perpetrators of intentional murder and premeditated murder could benefit from a "mitigating excuse" (*udhr mukhaffaf*), which would reduce their punishment if there was proof of provocation. For instance, according to Article 98, leniency is allowed if (1) the crime was committed while the accused was in a state of rage; (2) the victim engaged in an act deemed "not within his/her right" (*ghayr muhiqq*), or an "unfair" act; and (3) the act which the victim engaged in entails an element of "danger." Furthermore, the sentence could be reduced owing to extenuating circumstances (*asbab mukhaffafah*), if there was proof of reconciliation between the killer and the victim's family, such as when the

family agreed to relinquish its right to pursue further action (Articles 99 and 100).

Case 1: Iman

Iman, a 22-year-old pregnant woman, was repeatedly battered by her husband. Rumor had it that the abuse was in response to her illicit behavior. She tried to escape, and repeatedly sought the assistance of her family, who forced her to return to her abusive husband. She ran away and asked the help of a friend, who had a physician come and examine her. The physician found that Iman's abdomen had been burned with acid. On that very day, Iman's brother awakened her, tied her hands, and took her to a remote area, where he decapitated her. He threw her severed head in front of the police station, then returned to the corpse, slashed open her abdomen, and removed the fetus. The accused brother claimed in court that he had killed Iman for "reasons of honor." He was accused of premeditated murder (Article 328), but was sentenced to five years, owing to extenuating circumstances (Article 99 [2]), as the family of the victim relinquished its right to pursue further action.

Case 2: Laila

Laila, age 31, was accused by her brother of having an extramarital relationship. According to his court testimony, Laila admitted to him that she had committed adultery. This confession shocked him, causing him to react hysterically and to stab her repeatedly until she died. He was charged with intentional murder (Article 326), but the sentence was reduced to two months of imprisonment and a fine, owing to both mitigating excuse (Articles 97, 98) and extenuating circumstances (Article 100).

Case 3: Manal

The family of 19-year-old Manal, a young Bedouin woman, heard rumors that she had been having a romantic relationship out of wedlock. The shame of her alleged illicit behavior was compounded when Manal and her two sisters, who were being severely abused by their father, ran away from home with a stranger, believed to be a drug dealer, to another town for several days. In punishment, family members shaved the heads of the girls, an act that prompted their grandfather to take them to his own village to protect them. Their father brought them back two months later, after their brothers and male cousins promised not to harm them.

Upon their return, Manal was awakened one day by her cousin, the brother of her financé, and was taken from her home to the mountains, where her financé, another of his brothers,

and his father were waiting. Warning her not to call for help, the four men beat and stabbed her more than 20 times. While this abuse was being perpetrated, one of the attackers put his leg over her mouth to prevent her from screaming, while another thrust a scarf over her nose for more than three minutes, until they realized she had died.

A medical examination after the murder revealed that the hymens of all three females were intact. Convinced that bringing the girls back from their grandfather was part of a plan to kill Manal, the court charged all male family members with premeditated murder (Article 328). The court found one of the cousins guilty of premeditated murder. Although the defense requested that Article 98 be invoked, the court refused to accept that he had acted while in a state of rage; nonetheless, under extenuating circumstances (Article 99 [2]), it reduced his sentence from the stipulated 15 years of hard labor to 8 years. The second cousin was released following a presidential pardon, while charges against the uncle and third cousin were dropped because of lack of evidence.

Case 4: Nawal

Nawal, age 24, was accused by her family of behaving dishonorably, as people in their village were gossiping about her. In fear, she asked for police protection. Consequently, her brothers were called to the local police station and were obliged to sign a pledge not to cause her any harm. Only three of her four brothers signed, and it was the fourth brother, 25-year-old Sa'alem, who killed her. He beat her repeatedly, pushing her against a wall, then tied a plastic wire around her neck, and strangled her until she died. Sa'alem was charged with premeditated murder (Article 328), which was later modified to intentional murder (Article 326). His sentence was reduced to six months owing to both mitigating excuse (Articles 97, 98) and extenuating circumstances (Article 100).

Case 5: Salwa

Sixteen-year-old Salwa, who was engaged to her cousin, was suspected by her family of being pregnant (due to enlargement of her abdomen and nipples). She initially denied the accusation, but eventually confessed to her sister that she was indeed pregnant by her fiancé. On that same night, the sister put ten bags of detergent (weighing 10 kg) into a large plastic bag and placed the bag over the sleeping victim's mouth and nose, securing it in place with two pillows and pressing against it until Salwa stopped breathing. She then covered her sister and sat in the room for one or two hours until she felt her family wanted to go

to bed. At that point, she removed the bag from her sister's face and went to sleep, aware that her sister had died.

It was alleged that the victim told her sister she wanted to take some medication with her tea in the hope of aborting the pregnancy, when she was actually attempting to commit suicide. The accused sister claimed to have heard Salwa snoring and to have seen her frothing at the mouth; her placement of the bag of detergent was presented as a means to stifle the snoring, so that other members of the family would not stop Salwa from committing suicide.

The sister was initially accused of intentional murder (Article 326), but the charge was modified to involuntary manslaughter (Article 343). She was sentenced to one year of imprisonment and was ultimately released following payment of a fine, because she is a woman.

Case 6: Amal

Amal was 17 years old when her father learned from two medical reports that her hymen was ruptured. He took Amal from home to a valley, where he hit her on the head several times with a rock until she died, leaving the body on the road. The father was charged with intentional murder (Article 326), but his sentence was reduced to six months, owing to both mitigating excuse (Articles 97, 98) and extenuating circumstances (Article 100).

Summary

The six victims of femicide were either teenagers or young adults (ages 16–31). The perpetrator was usually a male relative who resorted to violent and, at times, unusually brutal methods of killing. Of greatest interest, however, is that, in all cases, the victim's family relinquished its rights (*iskat al-haq al-shakhsi*) to pursue further action, either civil or tribal, allowing for reduced sentences because of extenuating circumstances. The male members of the family make this decision. It clearly reflects the perception that the female victim is the "property" of her male relatives. The male "owner" conveys a clear message to society when he relinquishes his personal rights for retribution: he not only forgives the perpetrator for his crime of femicide, thus there is no need for further punishment, he also signals that society is no longer obligated to acknowledge the occurrence of a crime. Indeed, the court testimony often pointed to a common tendency to justify the criminal act and blame the victim: "The act she [the victim] committed contradicts acceptable Bedouin heritage" or "As a Muslim, I am ashamed of her conduct" (Case 3).

With the above official statistics and descriptive data in mind, the remaining analysis reveals discrimination against the de-

ceased woman in favor of the accused man in three separate realms: (1) in the Penal Code and Jordanian Court of Cassation, (2) among prosecutors and district attorneys, and (3) among judges. It concludes with findings pointing to external sociopolitical pressures that reinforce these gender-biased legal trends.

Discriminatory Nature of the Penal Code and of Cassation Court Rulings

The Jordanian Cassation Court is the court of appeals for Jordan, and it reviews almost all cases of femicide in that region. The West Bank Court of Appeals relies (Law 9, Article 260, 1961) on the rulings and legal logic of the Cassation Court. Prosecutors and defense attorneys alike use this court's rulings to define and explain subsequent femicide cases, and they serve as the basis for judges' decisions and as justification for verdicts.

Although an amalgamation of laws, rules, and regulations are applicable in the West Bank (based on Ottoman, British, Jordanian, and Egyptian laws, in addition to a multitude of Israeli Military Orders), the penal justice system is based on the Jordanian Penal Code (Law 16, 1960), legislated in 1960, at which time the West Bank was under Jordanian rule. Furthermore, criminal court procedures are bound by Jordanian law (Law 9, 1961).

As explained earlier, this Penal Code comprises specific articles pertaining to "crimes of honor" (Article 340), which require the killer to catch the victim in the act of adultery or in an "unlawful" bed, and general articles pertaining to murder (Articles 326 and 328), which allow for leniency if the killer was provoked or has been reconciled with the victim's family. In the cases presented, Article 340 could not be invoked because the offender acted either on the basis of suspicions or circumstantial evidence (e.g., the victim's state of pregnancy). Instead, the justice system was "manipulated" to invoke the less stringent general articles pertaining to crime (Abu-Odeh 2000).

Our findings suggest that defense attorneys and judges do not invoke Article 340 in cases of crimes committed on the basis of "family honor" because of its stringent criteria. Indeed, I was unable to find evidence that it was ever used. Ongoing research of ten years of rulings by the Jordanian Cassation Court, as well as three and a half years of rulings in the West Bank Court of Appeals (Ramallah, Hebron, and Nablus), has revealed that all crimes of honor were tried according to Articles 326 or 328.[6]

Because of the real possibility of a reduced sentence for femicide involving crimes of honor, it is not surprising to observe Pal-

[6] Preliminary data from the West Bank Court of Appeals indicate that of the seven cases of women killed for "crimes of honor" over the past three and a half years, five were tried under Article 326 and the other two under Article 328.

estinian males who have killed their female relatives surrendering themselves to the police immediately after committing their crime. This act may be culturally related to pride, involving *sharaf-a'ar* (cleansing tarnished family honor). Moreover, the offending male uses these very cultural beliefs to convince the legal system to sympathize with him. Although males are aware that they may not possess the evidence needed to benefit from Article 340, they and their defense attorneys can manipulate the evidence to benefit from mitigating excuses or extenuating circumstances applied to Article 326 or 328. In effect, femicide is tolerated, if not encouraged, by the existing legal code.

Similarly discriminating articles in the Penal Code are often used to mute sexual abuse committed against females. For example, Article 308 (1) (Law 16, 1960) allows the court to cease legal action or suspend the sentence of an offender who committed a crime of honor (rape) if he weds his victim according to a proper marriage contract. Such treatment (or rather, nontreatment) of sexual abuse lowers the tendency of women to report crimes of this type, and this failure to report may actually increase the chances of femicide (e.g., when the raped woman turns out to be pregnant from the rape).

Furthermore, the Health Code (Law 43, 1966) authorizes a *mukhtar* (village head) to issue a death certificate under certain circumstances (e.g., when the village is remote). It is possible to abuse such an authorization if one needs to circumvent the requirement that the deceased be examined and pronounced dead by a licensed physician before burial. Interviews with local *mukhtars* suggest that such practices have taken place. To what extent this code was abused to conceal cases of femicide remains a point of conjecture.

Far more ominous, however, is that males who kill in response to mere suspicion of their female relative's illicit behavior can also receive a reduced sentence. Most of the six femicide cases analyzed involved rumored "dishonorable" behavior, and it was the circulation of such rumors that elicited a decisive response from male relatives to vindicate the tarnished honor of the family (particularly Cases 1, 3, and 4). Nonetheless, the killers were able to benefit from mitigating excuses or extenuating circumstances. For example, the Court of Cassation reduced the sentence of a man who had killed his sister after hearing a rumor that she had fornicated (Decision 88/70, 1970, p. 962; see also Decision 112/66, 1967, p. 678). The court justified its decision because the sister allegedly had confirmed the rumor to her brother. Such an interpretation, however, does not always hold; in another case (Decision 90/81, 1981, p. 1770; see also Decision 81/99, 1981, p. 2078), the Court of Cassation ruled that the accused was not entitled to a reduced sentence because he had committed the crime in response to hearing a rumor.

"Evidence" based on gossip and rumors played a key role in court decisions regarding most of the six femicide cases. Such methods were justified by cultural and traditional values related to female purity and sexuality, which consider alleged behavior to be as "dishonorable" as actual behavior, and which do not take circumstances into consideration (e.g., that a pregnant victim may have been raped; that women who ran away from home were trying to escape an abusive father or husband).

Discriminatory and Negligent Practices of Prosecutors and District Attorneys

Traditionally and legally, the prosecution is entrusted with the role of advocating the victim's cause. Jordanian law pertaining to trial procedures (Article 35, Law 9, 1961) stipulates that the job of a prosecutor is to investigate the crime (place, time, circumstances) and to question the accused and all witnesses holding information that bears on it. After preparing an indictment, which has to be approved by the District Attorney, the prosecutor presents the evidence in court and is expected to request the maximum sentence applicable by law.

Analysis of the studied cases reveals that prosecutors and the District Attorney did little to ensure that the voice of the deceased was heard, and often appeared to be more sympathetic toward the accused than the victim. In other words, the very people entrusted by the state to defend the murdered woman's rights failed to do so. Discriminatory practices were evident even before the cases reached the courts. Often, prosecutors neglected to gather or utilize available evidence that buttressed their indictment. They seldom sought or presented the testimony of individuals who could have advocated for the deceased. Moreover, they often led the courts to believe that Article 97 or Article 98 (allowing for a reduced sentence owing to a mitigating excuse) was applicable to the cases they were prosecuting, and, if not, the courts applied the articles related to extenuating circumstances (Articles 99, 100).

For example, in Case 5—in which a 19-year-old girl was accused of taking the life of her sister, and where there was suspicion that her father, brothers, and uncle had orchestrated and perhaps even committed the crime—the court was unable to fully understand the crime scenario because the prosecutor had neglected to take appropriate measures in collecting evidence. The judge's decision to drop the charges brought against the male family members points to such neglect: "Given that the prosecutor did not present any evidence to prove the charges against the accused, that is, their participation in the killing, we believe that the accused are innocent." In Case 6, it was clear from the evidence submitted to the judge that both the victim's

brother and sister came to see their father as he was attacking his daughter, yet neither did anything to stop him or help her. The prosecutor or the court considered none of this; the siblings were not charged with any crime, even though they did nothing to prevent the killing.

Case 1 demonstrates not only the prosecutor's negligence in presenting all the evidence but also how his sympathies appear to have been with the accused rather than the victim. No one was called to advocate for the victim. The failure of the prosecutor to present his case proficiently is echoed in the following statement of a judge:

> The court believes that the prosecutor should have been more thorough in his investigation, especially since the deceived[7] was killed in stages, and her fetus was removed after her death according to criminal report number five. This means that there were two acts of killing: one against the deceived and the other against her fetus. . . . Furthermore, the deceived had suffered from previous abuses as evidenced from the acid burns and injuries reported by the forensic official.

The court is clearly implying that, despite the brutality of the crime committed, the prosecutor failed to gather the necessary evidence to support the case.

Discriminatory Practices by Presiding Judges

There was a strong tendency for the court to believe that victims were not absolved of guilt, as one judge stated in an interview with the author: "No smoke without fire; she must have done something wrong to get killed." For instance, in Case 4, where a man killed his sister as a result of rumors that she was engaging in adultery, his sentence was reduced "because the accused's sister stabbed him in his manhood" (*ta'an rugulatahu*, i.e., her behavior was an affront to his manhood), and "what the deceived said is considered in our society to be beyond what is acceptable" (*khorojan a'an almaa'loof*). Obviously, the perpetrator's claim that his sister had confessed to adultery cannot be contested, as she is not present to prove him wrong. Moreover, the court justified this reduced sentence by referring to the victim's assault to his manhood, which can be interpreted as an attempt to challenge, defame, or hurt him. No rigorous examination (e.g., psychological assessment) was ever made to ascertain if the conditions for invoking Article 98 were met (e.g., that the accused was in a state of extreme rage). Thus, the court manipulated the evidence in a gender-biased and discriminatory manner to reduce the sentence of the killer and even to justify his crimi-

[7] The term "deceived" was imported into Jordanian law from the French and British Penal Codes. This is the legal term used repeatedly to refer to the victims in the studied cases.

nal act. It failed to safeguard the right of females for a safe and secure life, and failed to deter potential perpetrators from committing similar crimes, conveying a message to society at large that it is easy to kill women and get away with it.

The courts deemed all "sexual" violations committed by females not only as"unrightful," but also as "dangerous" to the stability and integrity of society. In the words of one judge who was willing to be interviewed for this study: "When a man kills another man in a war, you do not consider it a crime, but an act of heroism. When a woman violates the most sacred sociocultural code, she puts herself in a state of war where there are no winners, and the actor cannot be considered a criminal either." This type of reasoning clearly affected the outcomes of court trials.

Take, for example, the court's references to a father charged with murder after striking his daughter in the head with a rock (Case 6): "when the father was told that his daughter was not *salima* (was 'damaged')," "when the father suspected that the neighbor had a dishonorable (*ghair sharifa*) relationship with his daughter," "when the father learned that his daughter was not a virgin." The words used by the court to explain the crime objectify the victim, making her a sexual commodity that must be kept "pure" and "honorable." The court painted a picture that seems to suggest the real crime was committed by the female (by engaging in a dishonorable relationship, by losing her virginity), and then concluded that "the father acted to cleanse the shame (*a'ar*) and to protect and safeguard his honor (*sharaf*)."

Similar use of patriarchal justification by the court for femicide was apparent in Case 5, in which a 16-year-old girl was killed by her sister after admitting that she was pregnant by her fiancé. Although an autopsy of the interred (the victim had been buried without a medical examination) revealed that suffocation was the cause of death—as a result of the sister's placement of 10 kg of detergent on top of the victim's mouth and nose—the accused sister was convicted of involuntary manslaughter, under the rather farfetched assumption that she had not realized this would kill her sister. The court's decision reveals its justification for the reduced charges.

> The accused, in her statement to the prosecutor, stated that when she heard her sister snoring, she knew it was because of the sedative she had ingested, and that her sister wanted to die. The accused closed the door on the deceived, which is indicative to us that *she did not intend to kill the deceived with her hands, but [merely] wished that her deceived sister would die.* She placed the bags of detergent on top of the quilt that covered the deceived so that her snoring would not be heard and rouse those in the house, who would then rescue her. The accused believed that her sister would die from the sedative she took, although she died as a result of the unintentional act of placing the detergent bags over her mouth in order to muffle her snor-

> ing. The testimony presented in this case led to the conclusion that the accused did not wish to murder her deceived sister when she committed the act that led to her death. Therefore, it cannot be other than *an error committed* by the accused which caused the death, and the *accused had no intention to kill.* Hence, the proper accusation that should be attributed to this deed is involuntary manslaughter (emphases added).

One of the salient features of this case is that no one considered whether the victim might have been raped, by her fiancé or anyone else. No one was willing to question the pregnancy, as her being the victim of sexual abuse would not have relieved the girl of her guilt; instead, the focus was on the need to end her life so as to save the "family honor." No one even looked closely at the age of the victim; at 16 years of age, she was legally a minor, and, theoretically, even a consensual act of fornication could lead to charges against her partner. Yet, no one thought to accuse her fiancé of sexual abuse of a minor. Moreover, forced betrothal of a girl of her age can be considered an illegal "child marriage," but no one questioned the betrothal. None of these questions were raised because they contradicted cultural practices. Thus, deliberate misinterpretation of the evidence not only relieved the accused of guilt and punishment but also released society (family members, the fiancé, the judges) from deeply examining social issues of sexual abuse and child marriage stemming from the case.

External Sociopolitical Pressures on the Judicial System

The discriminatory practices detailed above appear to have been reinforced by external social and political pressures exerted on the judicial system. The political process of constructing, deconstructing, or reconstructing a law affects the legal treatment of women. The Palestinian case study is one clear example of the effect of the colonization, military occupation, and other political hardships on legislation and the entire criminal justice system (Abdo 1999; Abu-Odeh 2000; al-Rais 2000; Khader 1998; Ruggi 1999). When weighed against pressing political concerns, women's "social issues" are considered secondary. In one interview, a judge stated, "There are more important issues to be discussed on the Palestinian current agenda than raising the problem of women killing." Another prosecutor stated that political hardships prevented him from relating to crimes against women in the "right legal way": "When we Palestinians achieve a stable political situation and construct our own legal system, we will be able to talk about due process."

There were times when the political affiliations of the accused earned him leniency. Such was the case of the Bedouin male charged with murdering his female cousin (fiancé) because

she had "ruined his reputation," and of two of his brothers and his father charged as accomplices (Case 3). In a newspaper advertisement, the tribe of the accused called upon President Arafat to intervene:

> A. H. is the one who killed his fiancé who did not preserve his honor or oath. This young man, sir, is one of the sons of the glorious Intifada, a son of Fateh that will never abandon any of its men. He has sacrificed three years of his life in the cells and prisons of the Zionist enemy for the sake of beloved Palestine.

Notwithstanding the Palestinian National Authority draft of the Basic Law, which officially opposes any discrimination against women, a presidential decree was relayed to the prosecutor to cease all criminal procedures against one of the brothers accused of being an accomplice, and to try the killer under the rubric of crimes committed on the basis of defending family honor (the court's final decision mentions President Arafat's order on 28 November 1996 to stop all legal proceedings against accused no. 2). It is believed that the President was persuaded to take such action for three main reasons: First, the accused (killer and brother) claimed to be active members in the Intifada (popular uprising) and supporters of one of the leading political factions (Fateh). Second, he did not wish to alienate members of a large Bedouin tribe. Finally, he accepted the tribe's claim that the brother did not act as an accomplice, but was arrested as he was running toward the scene of the crime after hearing the screams of the victim. The court ceased all criminal procedures against the brother (accomplice), although it proceeded with its trial against the killer. While he was convicted of premeditated murder (Article 328), his sentence was reduced owing to extenuating circumstances (Article 99).

This case demonstrates how sexist social and political pressures were used to influence the legal proceedings. This pressure not only exonerated one of the accomplices and reduced the sentence of the murderer, it also justified the crime and "accused" the victim of a greater one: Failure to preserve the honor and oath of her fiancé was tantamount to her betrayal of beloved Palestine. Hence, the murderer was defending not only his "personal" honor but also the honor of Palestine. The most ominous ramification of this case, however, is that it set an extremely dangerous precedent. Politically active males who victimize their female counterparts could be "exempt" from penalty for their crimes. Serving a nation under a political banner becomes a license to kill females in order to preserve the honor of those who claim to have been part of the struggle.

Discussion

This study has looked at the relationship among law, politics, and violence against Palestinian women, providing one illustration of sexism in the Palestinian criminal justice system. Analyzing official statistics, criminal justice proceedings, and legal codes, it has shown that, notwithstanding a growing national resistance to all forms of oppression, the legal, social, political, and cultural practices prevailing in Palestinian society (mainly in the West Bank) are orchestrated implicitly to mute the voices of victimized females and hinder the construction of abuses against women as a social problem. The dominant masculine discourse has shaped the images of women victims, often constructed in a strategy that ultimately ascribes responsibility to the victim in provoking and contributing to her own death. In essence, the murderer and society are reconstructed as victims, and the victim is turned into the guilty party. The sexual, physical, and social lives of women become "hymenized" (Abu-Odeh 2000), and acts of violence against females become constructed as legitimate "protective" behavior rather than criminal actions.

Hymenizing the Public Patriarchal Sphere

Although we were unable to gather and analyze more than six court decisions, the substance of this limited number of cases raised very serious legal, social, and political issues. The study illustrated how girls and women can fall victim to femicide by their closest relatives, while the legal codes and criminal system protect the murderer's masculine reputation and rights. Why is the murder of females based on "family honor" accepted and sympathized with by legal codes, judges, prosecutors, and the victim's family, as this study has shown? Why does the sociopolitical meaning of female virginity and purity legitimize femicide if the woman "misbehaves"? Who defines the female's misbehavior, or is it an indeterminate, elastic concept that can be easily wielded to control women's behavior and lives?

This study suggests that there is a silent masculine-political conspiracy when a female is killed because of "honor." It has shown how discriminatory the rulings of the Jordanian Cassation Court (court of appeal) were. It has also clarified the process by which all parties concerned—the prosecutor, the judges, and the victim's family—conspired (openly or covertly) to justify the perpetrator's criminal behavior. A discriminatory normalizing discourse is constructed to define, perceive, and react to victims of "honor crimes" as outside the boundaries of decent treatment (Smart 1995). The sexist codes of "hymenizing" shame, male honor, female purity and virginity, and manhood are used to preserve the male's reputation and social power.

Hymenizing the Private Personal Sphere

Muting the victim's voice was common practice, whether by her family's relinquishment of her rights to pursue further action or by the court's acceptance of the killer's word at her expense. The prosecutor's negligence in collecting evidence sufficient to convict the perpetrator, and the lack of social concern to that effect, suggests that the legal system was only appearing to seek punishment of the offender. That criminal justice officials followed legal procedures to a minimum attests to the discriminating milieu engulfing the lives of females.

The lack of political, social, and legal readiness to accept the validity of experiences reported by the victim renders the analysis of violence against women a highly complicated issue. Almost no voices or testimony were heard regarding the suffering inflicted on the victims prior to the crime, particularly the abuses that provoked the "dishonorable" behavior. Moreover, the victim's voice, pain, and hardship—which were supposed to be the main concern of the prosecutor—were rarely heard or argued in the court. The dominant discourse within the courts was the sociopolitical and cultural one, and rationalization techniques were used to justify the behavior of the offender. Thus, while perpetrators in the West have been known to receive impunity for reasons associated with lack of sufficient evidence or psychological and mental fitness (Jacobson & Gottman 1998; Otnow Lewis 1998), offenders in Palestinian society receive impunity for "cultural" values and/or (as we have seen in Case 3) for political reasons.

Hymenizing the Legal Codes

Analysis of the legal codes has indicated that they do not officially legitimize honor killing. Nonetheless, they do sympathize with male killers by allowing them exemption from or reduction in penalty (also reflected in decisions documented by the Court of Cassation). This covert "understanding" of the male's violent behavior reflects social intolerance to female sexual behavior. It also reflects the hidden desire of most social control agents (who happen to be men) to nullify the victim's ordeal and limit the dead victim's voice to her sexual "misbehavior" (see also Shalhoub-Kevorkian 1999a, 1999c).

Mahoney (1991) has shown legal narratives to be constructions that cannot ever capture the subtleties and nuances of women's realities. In the Arab-Palestinian context, as in similar contexts, social, economic, and sexual subordination of women are mutually reinforced, shaping and constructing the legal system. Subordination is so deeply ingrained in the legal system that even gossip and rumors are accepted as evidence and treated as a reasonable justification for femicide. The fact that courts did not

examine rigorously the validity of evidence based on hearsay is reflective of blind political gender decisions, serving the interests of those in power. Hence, gossip and rumors function to reinforce social and political owners of power.

What Is Hidden Behind the Numbers?

Scrutiny of official police statistics and information extracted from the District Attorney's files revealed a wide discrepancy in regard to femicides possibly related to "crimes of honor" in the West Bank. Not only were the numbers vastly unequal (police records documented 10 cases, while the DA files recorded more than 200), but the categories were so different that no real comparison could be made. How many killings listed under the categories of "Fate and Destiny," "Murder," and "Unknown" were related to crimes of honor can only be speculated.

Clearly, it is difficult to compare files of two different systems, but we are talking about killing, and these findings raise many difficult questions. Why should there be a basic discrepancy between the official data of two systems, when all murders (at least formally) should successively reach the police, the District Attorney, and then the court? The lack of clarity in regard to the number, nature, and motives behind crimes of femicide suggests a hidden agenda. Do the data reflect an unorganized reporting system, nonuniform procedures practiced by the police and other criminal justice apparatuses, or a patriarchal criminal justice system aimed at protecting male political interests? Could it be that the various categorizations are constructed to cover up sexist acts of female abuse? Most importantly, what are the future implications and ramifications for Palestinian women of the ambiguous way in which the criminal justice system handles femicide? It is our firm belief that we will be unable to deal effectively with femicide without obtaining satisfactory answers to these questions.

Dehymenizing Femicide in a Formative Period of State Building

Analysis of the current data points to an interrelation among sexism, crimes against women, masculine-patriarchal gender biases, and the sociopolitical and cultural context of a given society in a given time period (see also Crenshaw 1991; Shalhoub-Kevorkian 2000a; Smart 1995). These problems are undoubtedly not unique to the courts of the Palestinian Authority. Similar research conducted recently in Lebanon made paramount the need to change the existing legal code dealing with "crimes of honor" (Article 562) in order to alleviate legal discrimination against women (Moghaizel & Abd al-Satar 1999). The uniqueness of the Palestinian case study lies in the momentum of state build-

ing that opens up the chance to reexamine and reconstruct fair and just legal remedies.

Given the nation-building process and the ongoing political struggle for independence in Palestinian society, the improvement of women's legal status presents a significant challenge for politicians and reformers. Will the aspiration to construct a democratic state help or hinder the promotion of women's legal and social status and control violence against females (Abdo 1999; al-Saadawi 1993)? Whether the state building period will allow reexamination of gender-biased legal structures or will further empower customary religious and patriarchal civil laws is yet to be answered. On one hand, there are some indications of the perpetuation of masculine-political domination. One striking example is the reinvention of the *hamula* (tribe or clan) as a state mechanism, as such legitimization of the *hamula* has negative implications for women's legal status and especially for crimes inflicted upon women. On the other hand, Palestinian women have managed to "dehymenize" the political sphere, participating hand in hand with their male partners in resisting oppression and occupation. This action opens a window of hope that crimes against women can be reconstructed and "dehymenized" so as to be addressed in a humanitarian manner.

The process of nation building currently gripping Palestinian society has required the adoption of political strategies that empower the rights and needs of women from a human rights perspective. However, some elements in society could claim that raising the issue of "honor crimes" at this juncture could not only hamper political development but could also serve to reinforce Western stereotypes of Middle Eastern men as extremely aggressive and violent. Hence, it is often rationalized that this is not the time to discuss women's issues.

It is also possible that a confused legal policy has evolved in Palestinian society in response to crimes of femicide because of the society's highly complex sociopolitical legacy. Due to the long history of occupation, Palestinians never controlled their legal system, but rather it was controlled by colonizers and later by occupiers (Wing 1994). Recently, due to the establishment of the Palestinian Authority (PA), there have been calls by Palestinian legal scholars and human right activists to open a dialogue regarding barriers and complexities facing the legal system (al-Rais 2000; CEDAW 2001; Dara'awi & Zhaika 2000). For example, al-Rais (2000) has stated that the failure of the Palestinian legal system to function in an independent manner is connected not only to the legal legacy that preceded the establishment of the PA but also to barriers posed by the PA itself and its structural, social, and political components. Dara'awi and Zhaika (2000), studying the "exceptional legal system" of the PA, conclude by saying that Palestinian people are no longer willing to accept po-

litical justification for the lack of fairness and justice. They argue that, following the construction of the Palestinian Legislative Counsel, state officials should control the responsibility for justice and fairness in Palestine. We believe that the state-building period ought to raise the willingness of the courts and the criminal justice system to express, authoritatively and humanely, their opposition to legalized gender discrimination and to such unacceptable practices as accepting gossip and rumors as evidence. Such a clear statement could strengthen due process and preserve the legal rights of citizens. Failure of the courts to initiate social dialogue on this issue, in addition to their adoption of the dominant "cultural" discourse, should be a matter of concern.

The Palestinian people's resistance of abuse, be it political or social-structural, is tightly connected with resisting personal abuses. Not only is the personal arena political, but a country's liberation cannot be separated from the liberation of the individual from all forms of oppression, including gender oppression. The belief that unjust laws and legal proceedings related to femicide should be modified is related not only to the denial of rights to women victims but also to the right of society to have healthy social, legal, and political practices. To expect a sister, father, mother, or brother to kill their female relative is immoral, unhealthy, and psychologically traumatizing, and it leaves long-lasting scars. Hence, modifying the law and other legal practices helps to preserve minimal human values, but it can also serve as a therapeutic method to heal the long legacy of wounds inflicted by such crimes: "[We can] use the law to improve the material and social position of women both in the family and wider society" (Smart 1995:128). Modification of the law and reexamination of legal proceedings could eventually reduce the acceptance of killing as a method of dealing with sociocultural and political hardships, and could create new insight and new discourses in the newly established state.

The analysis of the cases presented, although they are limited in number, imparts an important message: The criminal justice system, as reflected in our data, is failing to safeguard the legal and human rights of the victim. Palestinian society is challenged, however, to find the means to provide women with a sense of safety, fairness, and respect of their rights whenever they are faced with such threatening situations. Unless a new political, social, and legal order is constructed to help society find alternate methods of dealing with such crimes, women will continue to be killed and held responsible for their own abuse and deaths. Now, within the formative context of state building, Palestinian policymakers and legislators have an exceptional opportunity to reconstruct the legal system in a manner that will dehymenize femicide and place the blame on the guilty party.

Table 3. Description of Femicide Cases

Case	Year	Offenders	Age of Victim	Method of Killing	Original Charge	Final Sentence
1	1993	brother	22	stabbing, decapitation	Premeditated murder (Article 328, 1960)	5 years
2	1995	brother	31	stabbing	Intentional murder (Article 326, 1960)	2 months + fine
3	1996	3 cousins and uncle	19	stabbing	Intentional murder (Article 326, 1960)	1) presidential pardon 2) 8 years imprisonment with hard labor 3–4) charges dropped due to lack of evidence
4	1996	brother	24	strangulation	Premeditated murder (Article 328, 1960)	6 months
5	1996	sister	16	suffocation	Intentional murder (Article 326, 1960)	1 year, but ultimately released by paying a fine
6	1997	father	17	striking with rock	Intentional murder (Article 326, 1960)	6 months

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