Empowerment from Within: Supporting Palestinian Women’s Struggle Against Violence

Ortal Bensky

Graduate Center, City University of New York

How does access to this work benefit you? Let us know!

Follow this and additional works at: http://academicworks.cuny.edu/gc_etds

Part of the Comparative Politics Commons, Domestic and Intimate Partner Violence Commons, International Relations Commons, Near and Middle Eastern Studies Commons, Other International and Area Studies Commons, Other Legal Studies Commons, Politics and Social Change Commons, Quantitative, Qualitative, Comparative, and Historical Methodologies Commons, Race and Ethnicity Commons, Social and Cultural Anthropology Commons, and the Women's Studies Commons

Recommended Citation

Bensky, Ortal, "Empowerment from Within: Supporting Palestinian Women's Struggle Against Violence" (2016). CUNY Academic Works.
http://academicworks.cuny.edu/gc_etds/706

This Thesis is brought to you by CUNY Academic Works. It has been accepted for inclusion in All Graduate Works by Year: Dissertations, Theses, and Capstone Projects by an authorized administrator of CUNY Academic Works. For more information, please contact deposit@gc.cuny.edu.
EMPOWERMENT FROM WITHIN:

SUPPORTING PALESTINIAN WOMEN’S STRUGGLE AGAINST VIOLENCE

by

ORTAL BENSKY

A master’s thesis submitted to the Graduate Faculty in Liberal Studies in partial fulfillment of the requirements for the degree for Master of Arts, The City University of New York

2016
EMPOWERMENT FROM WITHIN:

SUPPORTING PALESTINIAN WOMEN’S STRUGGLE AGAINST VIOLENCE

by

ORTAL BENSKY

This manuscript has been read and accepted for the Graduate Faculty in Liberal Studies in satisfaction of the requirement for the degree of Master of Arts.

Chiseche Mibenge

-------------------
Date

Thesis Advisor

Matthew Gold

-------------------
Date

Executive Officer

THE CITY UNIVERSITY OF NEW YORK
Abstract

EMPOWERMENT FROM WITHIN:

SUPPORTING PALESTINIAN WOMEN’S STRUGGLE AGAINST VIOLENCE

By Ortal Bensky

Advisor: Professor Chiseche Mibenge

Recent reports by the United Nations and local non-governmental organizations present a troubling increase in incidents of violence against Palestinian women in Palestine. These are cases of domestic violence, where the attackers are Palestinians, and political violence, where the attackers are Israeli settlers and soldiers. These violent incidents include attacks on body and property. Most incidents are neither dealt with by the Palestinian authorities nor by the Israeli government and judicial system. There is not sufficient international pressure to enforce justice. The purpose of this study is to offer alternative ways to prevent violent crimes, enforce relevant laws, and provide redress to victims. I compare the struggle of Palestinian women against violence with struggles of other marginal women around the world, especially Aboriginal women in Australia. I am using Aboriginal women as a comparison to Palestinian women based on the premise that the problem of violence against them is a result of discrimination that is based on gender, race, culture, nationality, and class, all factors that make them marginal. I present recommendations for remedies expected to be executed by Israel, the Palestinian society, the Palestinian Authority, and the United Nations as the authority to enforce international law. To achieve my goals for this study, I conducted interdisciplinary research, drawing from feminist, racist, criminal justice, international law, social and political science and legal frameworks.
To my beloved Dad, Mom, and Sisters –

For being my personal source of empowerment.
# Table of Contents

Abstract........................................................................................................................................ iv

Table of Contents........................................................................................................................ vi

Chapter I: Background, Legal Framework, and Methodology...................................................... 1

  Research Hypothesis .................................................................................................................. 1

  Violence against Palestinian Women ....................................................................................... 4

  Palestinian Women as a Marginal Group ................................................................................. 6

  Legal Framework ....................................................................................................................... 14

  Methodology ............................................................................................................................... 25

  Conclusions ................................................................................................................................. 29

Chapter II: The Struggle of Aboriginal Women in Australia .................................................... 30

  Violence against Aboriginal Women in Australia .................................................................. 32

  Remedies .................................................................................................................................. 36

  Conclusions ................................................................................................................................. 48

Chapter III: Recommendations for Supporting Palestinian Women’s Struggle ......................... 49

  Israel ........................................................................................................................................ 49

  The United Nations .................................................................................................................. 50

  Palestinian Society and the Palestinian Authority ................................................................. 54

  Conclusions ................................................................................................................................. 67
Chapter I: Background, Legal Framework, and Methodology

Research Hypothesis

During the course of life, we are bound to witness injustice and harm. Violations of human rights happen in many places, unfortunately. In some cases the violations are known and are condemned all over the world, while other violations are lower profile. In this study my goal is to give voice to low profile victims, Palestinian women in Palestine who have suffered from violence against them, and to potential victims. According to the rising number of incidents of violence against women and the evidence of lack of law enforcement and redress offered to victims, it is clear that not enough is being done by the authorities that are assigned to protect the human rights of women in Palestine nor by the Palestinian society.

Some researchers try to avoid using the term “victims” to describe women, due to the concern that it will sound like women are vulnerable and passive, which will set them up as a weaker gender as was common a few decades back when they were not considered worthy enough to be part of the public sphere. My use of the word “victims” is intentional, and does not mean that women are passive but they are vulnerable, they are more likely to be subjected to human rights violations.¹ Every person, woman or man, who is subjected to violations of human rights is a victim and is vulnerable. This is the problem I am trying to address and find remedies for in this study. Being a victim does not reflect poorly on the victim, but on the offenders and society. All women who suffered from violence should realize that there is nothing wrong with them, and should understand that their situation is not their fault and that there can be remedies if their

¹ Palestinian women are vulnerable to violations of human rights due to various reasons, among them their reduced status in a mostly patriarchal society, their social and financial dependency on male members of society, the lack of prosecution of perpetrators of violent crimes against them, and the fact that many of them stay home alone or with children during the day.
voices are heard. However, not all victims are equal. Some voices are heard more than others.

The voices of Palestinian women are often not heard due to their marginality.

My definition for marginal people is that they are not the highest priority of the authorities, their society, and world public opinion, for dealing with violations of their human rights. Palestinian women’s marginality is layered. Starting with gender, women were left unprotected by the dominant human rights model throughout history and some say that they still are, since the violations of their human rights often happen at home when dealing with cases of domestic violence. The human rights framework deals better with the public sphere than with the private sphere.² Feminists have been fighting to solve this problem and to make sure that people in the private sphere enjoy the same rights they would enjoy in the public sphere. Feminist movements have made progress in the last few decades, but their solutions and arguments are often viewed by their critics as “Western”, “global”, and “First World” (Richards 205). Not all women are the same and not all voices are represented in the discourse of feminist movements. This takes us to other factors that contribute to the marginality of Palestinian women in Palestine – race and religion. Arabs and Muslims in the Western world, especially since 9/11 and recent terror attacks around the world but even prior to that, have been treated suspiciously in many cases.³

---

² According to Richards, “Feminists have challenged the idea that human rights are universally guaranteed to all individuals by noting that biases related to the distinction between the public and private spheres are reproduced in the dominant human rights paradigm. Whereas men may face violations of civil and political rights in the public sphere, violations of women’s human rights are more likely to occur in the private sphere” (204).

³ Paris terrorist attacks began on 13 November, 2015, and left 130 people dead. According to the Washington Post, “just as American Muslims faced stigma after Sept. 11, many French Muslims fear public backlash.” The Washington Post article also mentioned the Charlie Hebdo attacks on 7 January, 2015, when terrorists killed 12 people at the offices of the French satirical newspaper. According to the Washington Post, “After the Charlie Hebdo attacks in January, a 281 percent rise in anti-Muslim incidents was registered in the first quarter of 2015 compared with the exact same time last year, according to the National Observatory Against Islamophobia” (Bighash).
Furthermore, Palestinian people live under the occupation of Israel, and do not have equal rights to Israelis. They currently do not have a nation of their own and are not participant members of the United Nations (UN), as their status is only as an observer state. In terms of culture, the Palestinian society is patriarchal in general. In addition, a majority of the Palestinians in Palestine are of lower economic class. The combination of these conditions make Palestinian women marginal.

This study is inspired by gender studies, social studies, political science studies, and legal and anthropologist frameworks. My hypothesis is that there are effective ways to prevent violence against women, ensure enforcement of laws pertaining to human rights violations, and obtain redress for Palestinian women victims. This hypothesis is based on studying similar cases of violence against marginal women and solutions offered to them by international and local organizations. In order to find creative ways of law enforcement and redress for victims that protect women’s human rights as defined by international law but are suitable to the Palestinian society, I research cases of marginal women living in conservative and patriarchal societies that are part of liberal countries, to learn what was beneficial in their cases. The discrimination against Aboriginal women due to their gender, race, culture, nation, and class is a basis for comparison with the discrimination against Palestinian women. I focus on Aboriginal women in Australia, but also refer to indigenous women in other post-colonial countries, like Canada and

---

4 According to Andrews, “Women engaged in feminist struggles must move beyond the quagmire of the universalist aspirations of feminism and its human rights vision, versus the continuing recognition of cultural differences … We need to engage in a different kind of discourse even while we aspire to an agreed universalism; one that builds from the particular” (936-938). These statements are true to scholars, politicians and other activists as well.
Chile. The violations of women’s human rights in these societies have been going on for years, and there were remedies suggested for them, some more successful than others. The struggles for the protection of human rights of marginal women in the world have taught us that there is a need to find a “localized and more nuanced approach to international human rights discourse and practice” (Andrews 938-939). Learning lessons from similar struggles around the world can be helpful with the struggle to protect the human rights of Palestinian women.

**Violence against Palestinian Women**

Violence against Palestinian women is not random, but systematic. In this section I discuss domestic violence within the Palestinian society and political violence by Israelis, settlers and soldiers. For the purposes of this research, I use the UN definition of violence against women: “… any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” (UN General Assembly, Declaration on the Elimination art. 1). In the Convention on the Elimination of All Forms of Discrimination against Women, General Recommendation No. 19, the definition of gender-based violence is “violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty” (UN Committee on the

---

5 I refer to all Australia and Canada’s indigenous populations as “Aboriginal” or “indigenous”, although it is important to mention that Aboriginal people refer to their communities in specific names.

6 Violence by Israelis, referred to in this work, is political. Israeli soldiers are in the occupied territories for political reasons. Violence by settlers is for political purposes – to get Palestinians off the land. While violence by soldiers is often random and perpetrated by opportunists who abuse what they perceive as the power of wearing Israeli military’s uniforms, violence by settlers is often planned and perpetrated by groups.
Elimination of Discrimination Against Women). Palestinian women suffer from violence at home and outside and are not protected in the public nor the private spheres. In addition to the physical and emotional harms of violence against women, the fact that women are not safe to leave their homes can hurt them financially if they cannot go to work, but in some cases there is a risk of staying at home alone as well.

Violence against women by their partners or family members usually occur inside their homes. According to a Human Rights Watch (HRW) report, “A significant number of women and girls in the Occupied Palestinian Territories (OPT) are victims of violence perpetrated by family members and intimate partners … There is some evidence the level of violence is getting worse while the remedies available to victims are being further eroded” (Deif and Mair 3). The report describes different kinds of domestic violence such as spousal abuse, child abuse, rape and incest. The report also describes violence under the guise of family “honor”.7

Palestinian women are also subject to violence against them by Israeli settlers, at home and outside. The lives of Palestinians are being significantly affected by a minority of Israeli settlers who are engaged in violence and intimidation with the aim of forcing Palestinians off the land (UN General Assembly, “Report of the Independent International Fact-Finding Mission” 12). Women alone in their homes are easy targets for settler violence (UN General Assembly, “Report of the Independent International Fact-Finding Mission” 22). Examples of violence against women by settlers presented by a Women’s Centre for Legal Aid and Counselling

---

7 According to the HRW report, “A Palestinian woman’s life is at risk if she is suspected of engaging in behavior her family or community considers taboo, such as talking with a man who is not her husband or a blood relative (even in a public place), refusing to tell a close male relative where she has been and with whom, or marrying someone without the approval of her family: in short for doing or being suspected to have done anything that is perceived to bring dishonor on herself and on her family” (Deif and Mair 49).
(WCLAC) report are as follows: A 70 year old woman is taken to hospital after inhaling tear gas fired into her house by settlers; four armed settlers attack and beat a 50 year old woman as she collects herbs near her home; a woman, her two daughters and an old man are sprayed with urine by a young settler as they were walking home in Hebron ("Israeli Settler Violence" 7-8).  

Israeli soldiers acting as bystanders, as they witness settlers’ violent acts toward women, are considered as soldiers’ violence for the sake of this article. The lack of interference to protect Palestinians from harm by the authority that is supposed to protect them is considered collaboration with the attackers. The WCLAC described situations when settlers attack Palestinian villages and when the local Palestinians resist violently, Israeli soldiers protect the Israeli settlers and attack the Palestinians ("Israeli Settler Violence" 10).  

Palestinian Women as a Marginal Group  

The marginalization of Palestinian women is due to their gender, race, religion, culture, national status, and class, as stated in the Research Hypothesis section. This section expands on aspects of the vulnerability of Palestinian women as a group that have a direct effect on violations of their

---

8 The WCLAC is an independent Palestinian, not-for-profit, non-governmental organization. Its goal is to develop a democratic Palestinian society based on the principles of gender equality and social justice. According to the 2013 WCLAC report, “Settler-related incidents resulting in injury to Palestinians are up 5.5 percent over the same period in 2012, whilst incidents involving property damage have risen by 41 percent over the same period” ("Israeli Settler Violence" 4).  
9 It is important to emphasis that not all soldiers, nor all settlers, are violent against women. It is enough when there is a small group of violent people to address violence against women as a problem. This study is about human rights of Palestinian women and is not intended to be political nor to create a bad and false reputation of Israeli soldiers and settlers.  
10 “Judicial decisions … support the view that whenever conduct of organized armed groups or military units is at stake it suffices to show that the state to which they may be linked exercises ‘overall control’ over them, in order for the conduct of those groups or units to be legally attributed to the state” (Cassese 649).  
11 An example of Israeli soldiers’ abuse presented by the WCLAC: A woman lost consciousness when Israeli soldiers fired tear gas into her house ("Israeli Settler Violence" 7).
human rights as victims of violence and the lack of law enforcement and redress for victims of violent acts.

Ní Aoláin claimed that “women are the group most historically marginalized and excluded from the peace-making and peace-building processes across all jurisdictions and conflicts” (570). Women are historically marginalized and excluded from politics in general and conflicts and peace-making processes in particular. Palestinian women are victims of the political status of Palestine, but with less influence and power to make a difference than men. It is important to mention that there is an effort of women to gain more political power.

According to Clark and Moser, there is an extensive literature on political violence and armed conflict that portray a simplistic division of roles: men as the perpetrators and women as victims, with a notion that relates women to peace (passivity) and men to war (aggression). Clark and Moser state that, “this under- or mis-representation of the gendered causes, costs and consequences of violence has resulted in insufficient recognition of women’s involvement and participation, both unavoidable and deliberate, in violent conflicts, and of the de-linking of women from passive peaceful stereotypes” (3-4). In this study there is no intention to misrepresent the roles of women and men in Palestine and Israel. Palestinian women are taking different parts in the conflict with Israel, and are involved in violent acts against Israelis. Not all

---

12 For this study, I refer to the political context of occupation in Israel as a state of conflict between Israel and Palestine. I do not refer to it as a war, since the occupation was established as a result of the 1967 Six-Day war that ended. I do not regard it as post-colonial, because while this definition is used for indigenous peoples in countries like Australia, Canada, and Latin America, it is not accurate for Palestinians. It is still colonial for them, they are not part of Israel nor do they wish to be, and Israeli governments often state the will to find a solution so that Palestine will not be part of Israel.

13 The Palestinian women’s movement led to the creation of the Ministry of Women’s Affairs (MOWA) in 2003, and the creation of gender desks within various ministries. The MOWA’s mandate includes monitoring the government’s compliance with the terms of gender equality.
of them are victims of violence, domestic or political, and not all men are violent. There has been some progress in certain areas for women’s equality. In 2009, for example, for the first time in the history of Palestine two women were appointed as judges to the Islamic Sharia court in the West Bank cities of Hebron and Ramallah, and in 2015 the first woman was permitted to perform Muslim marriages in the Palestinian territories (Hadid). This research is dealing with a problem of violence against women that is documented in reports about violations of human rights of women, presented by the UN and other organizations, and there is no intention to generalize genders, but to present circumstances that cause ongoing incidents of violence against women.

Patriarchal attitudes contribute to women’s low status, discrimination, and inequality in the OPT. The Palestinian society is mostly traditional Muslim, where fundamentalism is present. Bennoune, describes how political Islam affects women’s rights:

> Beyond the law, fundamentalists denounce secularists and seek to bring politicized religion into all spheres. They want to police and judge and change the behavior, appearance, and comportment of other people of Muslim heritage. They tend to aim to sharply limit women’s rights, though this is sometimes couched in the soothing language of protection and respect and difference. (Your Fatwa 15)

In patriarchal societies women are often expected to stay in the private sphere and occupy traditional gender roles at home, as opposed to roles in public life. The early liberal feminist movement revealed what went on behind closed doors. They politicized the use of the public/private dichotomy by showing how patriarchy is served by confining women to the

---

14 Women are discriminated against in employment, and a very small percentage of women own a house, land or even a car (Deif and Mair 26).
private sphere, restricting their representation in the public sphere and obscuring the result in oppression of women by the claim that the two spheres are of equal importance (Bassadien and Hochfeld 5). The discourse about human rights is done in the public sphere, and was traditionally done by men. This is one of the limitations of human rights framework as being androcentric, privileging male experience, which has been challenged by feminists in the last few decades (Charlesworth and Chinkin 69). Furthermore, human rights framework protects people in the public sphere better than in the private sphere, and this is another reason why it is considered androcentric, preferring men’s experience, since traditionally more men operated in the public sphere while women remained in the private sphere. In most societies, especially in traditional ones, what happens behind closed doors is private and should remain in the private sphere. This belief is challenged by feminists in the last few decades, stating that the distinction between public and private should be eliminated. Violations of human rights, at home or outside, should be treated equally. People should enjoy the right to privacy in their own homes, until there are violations of human rights. The different treatment of human rights violations in the public and private spheres contributes to the continuation of violence against women by not challenging social discourses that privatize a public problem (Bassadien and Hochfeld 13). Violation of human rights in general, and violence against women in particular, are public problems.\footnote{An example for court ruling on the responsibility of government to enforce human rights in the public sphere is the case of Jessica Gonzales. In June 1999, Jessica Gonzales' three young daughters were abducted by her estranged husband and killed after the Colorado police refused to enforce a restraining order against him. Gonzales filed a lawsuit against the police, but in June 2005 the U.S. Supreme Court ruled that she had no Constitutional right to police enforcement of her restraining order. This ruling shows that the US government supported the notion that the private sphere is excluded from human rights discourse. Gonzales filed a petition with the Inter-American Commission on Human Rights (IACHR). The IACHR found the U.S. government responsible for human rights violations against Jessica Lenahan (formerly Gonzales) and her three deceased children who were victims of domestic violence. This ruling established the}
Palestinian women are expected to stay at home in the private sphere to care for their children and sometimes elderly parents, while men go to work. This situation, of women alone with their children during the day, makes women vulnerable. Women describe helplessness when their children and grandchildren are terrified and they can’t comfort them (“Israeli Settler Violence” 11). Women’s testimonies describe insecurity in their own homes and also the fear of leaving the house in case something will happen in their absence.

Women’s second-class status in economic, social and political life translates into a lack of decision-making power in the domestic sphere, even on the most intimate aspects of their lives. The Palestinian women’s movement has played an important role in the quest for Palestinian self-determination in the OPT. Politicians and Islamist groups have attacked the Palestinian women’s movement at various junctures, accusing it of being part of a Western conspiracy to destroy Islamic family and social values and questioning its commitment to the national cause. There were incidents of confrontation, harassment, and intimidation during the course of the work of women NGO activists, since the male-dominated society accepts patriarchal values as sacred to the society and views the status-quo as crucial (Deif and Mair 29).

Victims cannot comfortably turn to the local police to seek protection and go to the courts for redress. The police officers in the OPT are mainly men, and are part of the Palestinian patriarchal

16 In a testimony taken by the WCLAC, Fatima S. describes a troubling situation: “I constantly feel unsafe in my own house with my young children. On that day I realized how the settlers can get away with anything with the army’s protection. I have no doubt that one day the settlers will take over our house with the help of the army. We live a life of sheer terror” (“Israeli Settler Violence” 10).

17 Example: Male relatives (usually fathers) often arrange marriages for Palestinian girls, even before they reach adulthood.
society. They often discourage victims from reporting violent incidents, do not believe their testimonies, and send them back to the care of their abusers.\textsuperscript{18}

In all cases of violence against women, domestic or by settlers or Israeli soldiers, victims are not encouraged to file complaints and ask for redress, if because of the fear and shame to expose themselves, the fear of the consequences, or the knowledge that there will be no actual treatment of their complaints. The Israeli legal framework is inaccessible and there are barriers to domestic justice from the Palestinian Authority (PA).\textsuperscript{19}

Palestinian women rarely report domestic violence to the authorities. The low rate of reports is a symptom of the significant social and legal obstacles to meaningful gender-based violence prevention and response in the OPT. Only a small number of victims of violence, women and girls, sought any form of redress with Palestinian institutions. HRW found that “Women’s NGOs attribute the underreporting of violence to a variety of factors, including: the perceived futility of seeking justice; societal stigma associated with reporting family violence to the authorities; potentially life-threatening consequences of reporting the abuse; and the fact that the perpetrator is often the only breadwinner in the family” (Deif and Mair 33). Furthermore, Public opinion

\textsuperscript{18} According the HRW, “Palestinian women and girls who report abuse to the authorities find themselves confronting a system that prioritizes the reputations of their families in the community over their own well-being and lives. Accordingly, police officers and clan leaders regularly “mediate” and “resolve” these cases, typically by returning the abused women to the “care and protection” of her attacker, without ever referring the case to the courts or the woman to social or other services she might need” (Deif and Mair 5-6). I discuss mediation later on in this study as a recommended method for solving disputes related to violence against women but it should be done properly by a trained facilitator and with care and assurance of victims’ safety. That way victims can protect their family reputation that is important to them and also take steps to assure their own safety and well-being.

\textsuperscript{19} More in the Legal Framework section of this chapter.
polls reveal that Palestinian society largely condones violence against women and discourages women from reporting abuse.\textsuperscript{20}

With respect to abuse by settlers or Israeli soldiers, the WCLAC found that most Palestinian women refuse to file complaints against Israeli soldiers and settlers: “They lack confidence in the law enforcement system that affords little protection and allows soldiers to act with impunity. Women fear further harassment or reprisal attacks from settlers if they file complaints against them and fear exposing themselves to harassment and threats from the Israeli police when filing complaints” (“Alternative Report” 9).\textsuperscript{21} In towns where the Israeli military has control over security matters, Palestinian women and girls are particularly reluctant to report abuse to the occupying power.

Women are a vulnerable group, as stated above, within a vulnerable group of the Palestinians in the OPT, which makes them even more vulnerable. Palestine is not sovereign and therefore is in the hands of the occupier, Israel. The UN constantly condemns Israel for violating the human rights of Palestinian civilians in the OPT.\textsuperscript{22} In a report from February 2014, in regard to settlers’

\textsuperscript{20} Women in polls expresses the notion that it was inappropriate for the police to interfere when a man assaults his wife; other women felt that a wife beaten by her husband should not talk about it to anyone except her parents; women who experienced violence were asked why they did not leave their abusive marriages. The majority of them reported that they refused to leave home because of fear of losing custody of their children; a large number of women felt that divorce was too stigmatizing; some women reported that they would have no place to go if they left their homes (Deif and Mair 34).

\textsuperscript{21} Periodic reports by Yesh Din, an Israeli NGO, state that most cases of abuse against Palestinians are not dealt with. Every year, Yesh Din publishes data based on long-term monitoring of the results of investigations by the Samaria & Judea District Police (occupied territories) into offenses committed by Israeli civilians (settlers and others) involved in criminal offenses against Palestinian civilians and their property in the occupied territories (“Law Enforcement” 2).

\textsuperscript{22} Example: A UN report titled “Israeli practices affecting the human rights of the Palestinian people in the Occupied Palestinian Territory, including East Jerusalem.”
violence toward Palestinians, the UN General Assembly stated that “the enduring failure of Israel to comply with its legal obligations in this regard is part of wider systemic failures to guarantee Palestinians’ human rights” (“Israeli settlements in the Occupied Palestinian Territory” 15).

Fundamentalist Muslim and Arab societies are restricted by the Shari’ah law, which imposes restrictions of dress code and activities on women. Bennoune described the tension between Islam and Islamism, in regard to women’s human rights:

> From the Sahel to the Caucasus, a creeping ‘Islamization’ narrows social space, assaults women’s rights, and transfigures lifestyles. Everywhere—from Montreal to … East Jerusalem—women of Muslim heritage are under pressure to cover more and more of their skin, their hair, their very beings. To disappear ….

> In such a global environment, one must speak out against Muslim fundamentalists for the sake of basic human rights. It is a moral imperative. But, when doing so in the United States, one must also try to do this in a way that will not be hijacked by those with anti-Muslim agendas.

> Islam and Islamism are not the same thing … Being a devout believer has nothing to do with purveying political Islam. (Your Fatwa 8-9)

Palestinian women are part of this wider social structure that is inspired by Muslim fundamentalism. The mere fact that a society is Muslim is not a barrier to the protection of

---

23 The Shari’ah law is the fundamental religious concept of Islam, namely its law, systematized during the 2nd and 3rd centuries of the Muslim era, 8th–9th centuries ce (”Shari’ah”).

24 Bennoune emphasizes that the fundamentalism movements “are primarily political rather than spiritual.” She explains how Islamism “is not an inherently Muslim approach or one to which Muslim majority societies naturally tend. There are many other Islams …” (Your Fatwa 14).
women’s rights; on the contrary. Mayer discusses the respect of Islamic tradition of women’s rights:

Against the background of a highly patriarchal social order in pre-Islamic Arabia, Qur’anic innovations tended in the direction of enhancing women’s rights and elevating their status and dignity. In an environment where women were so devalued that female infanticide was a common and tolerated practice, the Qur’an introduced reforms that prohibited female infanticide, permitted women to inherit … curbed abuses of divorce by husbands, and gave women the ownership of the dower …

Islam conferred rights on women in the seventh century that women in the West were unable to obtain until relatively recent times. For example, Muslim women enjoyed full legal personality; could own and manage property … The historical accounts regarding the status of women in the first decades of the Islamic community under the Prophet Muhammad suggest that women were originally accorded considerable freedom, that within the family they used the rights given them by Islam to defend their interests, and that they participated in public and religious affairs on a footing of approximate equality with men. (100)

Any recommendations that are given later in this study, in the goal of protecting women’s rights in Palestine, are based on respect and consideration of Palestinian culture.

**Legal Framework**

Although I present a problem in this research of violations of human rights and suggest remedies for the problem in proceeding chapters, it is not to replace the legal framework that was created
to address this problem, but to find ways to enforce it to marginal women. Article 3 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), states that “States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms…” (UN General Assembly 2). This convention defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination. Israel ratified this convention on 3 October, 1991, and yet the human rights of Palestinian women are not protected. Following is a review of the human rights that are violated by acts of violence against women and an examination of the responsibilities of the UN, Israel, and the PA to protect the human rights of Palestinian women.

**Review of Human Rights Violations**

The human rights that are violated by acts of violence against women are not unique to women. These human rights are for all people, regardless of gender. Due to historical inequality between the protection of men’s and women’s human rights, there was a need for specific human rights instruments to ensure that human rights framework addresses women as equal to men. According to UN Women, CEDAW “provides the basis for realizing equality between women and men through ensuring women's equal access to, and equal opportunities in, political and public life” (“Convention on the Elimination”).

---

25 CEDAW entered into force as an international treaty on 3 September, 1981.
26 The historical inequality is sourced by the notion of legal framework that was addressed to the public sphere that was dominated by men, and less the private sphere, that women were encouraged and even forced to belong to.
The 1993 UN Declaration on the Elimination of Violence against Women is the first international instrument explicitly addressing violence against women, providing a framework for national and international action (UN Women, “Global Norms and Standards”).

Article 3 in the declaration states the following:

> Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia:

(a) The right to life;

(b) The right to equality;

(c) The right to equal protection under the law;

(d) The right to be free from all forms of discrimination;

(e) The right to the highest standard attainable of physical and mental health.

(UN General Assembly, “Declaration on the Elimination” 2)

The Universal Declaration of Human Rights (UDHR) is considered to be the foundation of international human rights law. Adopted in 1948, the UDHR has inspired legally binding international human rights treaties. The UN General Assembly proclaimed the UDHR “as a common standard of achievement for all peoples and all nations …” (“Universal Declaration of

---

27 The declaration is not legally binding, and until today there is not a convention for the elimination of violence against women, even though according to General Recommendation number 19 in CEDAW, there is a definition of gender-based violence as violence that is directed against women as women. There are also treaties on violence against women at regional levels, such as the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women that entered into force on 5 March, 1995 (Organization of American States).
Human Rights”). Among the rights violated as a result of violence, domestic and political, are the following:

(a) Article 3: “Everyone has the right to life, liberty and security of person.”

(b) Article 5: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

These rights are included in legally binding Conventions, such as the 1966 International Covenant on Civil and Political Rights (ICCPR), Articles 6.1., 7.28

Responsibilities for Prevention of Violence, Enforcement of Applicable Laws, and Redress:

Israel

1. Domestic Law and NGOs

Israel has laws that protect women from domestic violence.29 There are also laws for welfare Assistance to Battered Women.30 There are organizations in Israel that are devoted to the

---

28 The ICCPR was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) on 16 December, 1966, entry into force 3 January, 1976, in accordance with article 27. It was ratified by Israel in 1991.
30 Welfare Services Law, 5773-2012. The Law provides for an adaptation grant for any woman who has stayed for at least 60 days in a shelter for battered women, to assist her with adapting to new circumstances.
protection of women, such as NA’AMAT.\textsuperscript{31} However, the NGOs that advocate against abuse in Israel do not advocate for Palestinian women in the OPT.\textsuperscript{32}

Despite Israel’s obligation under international law to protect the rights of all residents of the occupied territories, there are distinct legal systems that exist in the OPT and are applied separately to Israeli settlers and Palestinians. Israelis are subject to Israeli domestic law enforced by the police and courts in Israel. A patchwork of Israeli military orders and Ottoman, British and Jordanian legislation is applied to Palestinians, who are also subject to a military court system with a wide jurisdictional reach. Israeli laws are applied personally to Israelis in the West Bank, giving them preferential legal status over Palestinians. A matrix of military orders applies personally, by law or by practice, only to Palestinians to regulate and control most aspects of daily life, including restricting an extensive range of rights. Israelis and Palestinians are also treated differently by the same laws (UN General Assembly, “Report of the Independent International Fact-Finding Mission” 10). In 2012 the UN General Assembly stated that the “lack of accountability permeates all types of acts of violence committed by Israeli settlers against property and persons” (“Israeli Settlements in the Occupied Palestinian Territory” 14).

The Israeli NGO Yesh Din has monitored 869 investigation files processed by the Samaria and Judea District Police in Palestine between 2005 and 2012. Over 91\% of all concluded investigations into complaints of criminal offences against Palestinian persons and property were

\textsuperscript{31} NA’AMAT is an NGO that strives to empower battered Israeli women to build healthy, abuse-free lives for themselves and their children. NA’AMAT also works to prevent the phenomena of violence against women within the family and in society. Another organization that strives to empower women in Israel is WIZO. WIZO is committed to advancing the status of women in Israel in all spheres of life.

\textsuperscript{32} Even women from different groups in Israel have difficulties to get protection from violence. There are not enough shelters for women across the country and not enough help for women from minority groups in the Israeli society, like Ethiopians.
closed without an indictment being served, mostly due to investigative failures (“Submission by the Israeli Human Rights Organization” 8-9). This is despite the fact that attacks and intimidation by settlers against Palestinians often are carried out in daytime and in the presence of Israeli army or police personnel, who frequently do not stop the violence or are ineffective. When acts of violence are committed by Palestinians against settlers, these are appropriately addressed, indicating that the lack of law enforcement experienced by Palestinians is largely a matter of political will. Between 90 to 95 percent of cases against Palestinians are investigated and go to court. The failure to carry out effective investigations and prosecutions of settler violence impedes the Palestinians’ access to an effective remedy.33

The Israeli Supreme Court sitting as the High Court of Justice does not offer Palestinians a clear avenue for recourse. Where judicial rulings have favored the Palestinian petitioners, there is a lack of enforcement of them. Palestinians in the OPT suffer discriminatory application of a military court system that does not comply with international standards of fair trial and administration of justice (UN General Assembly, “Report of the Independent International Fact-Finding Mission” 11).

2. International Law

The UN General Assembly stated Israel’s obligations under International law:

> Israel is bound to respect, protect, promote and fulfil the full range of the social, economic, cultural, civil and political human rights of all persons within its

---

33 This is exacerbated by the multiple barriers presented to Palestinians by the court system, including time, cost, language, and procedural barriers, coupled with inadequate notification of relevant orders and declarations. Fear and lack of confidence in the courts also act as deterrents to seeking redress (UN General Assembly, “Report of the Independent International Fact-Finding Mission” 11).
jurisdiction as a result of its being party to the International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic Social and Cultural Rights (ICESCR) … Convention on All Forms of Discrimination against Women (CEDAW), Convention on the Rights of the Child (CRC), International Convention on the Elimination of All Forms of Racial Discrimination (CERD) …

Israel is also bound by relevant international human rights rules which form a part of customary international law. (“Report of the Independent International Fact-Finding Mission” 4)34

The WCLAC found that Israel does not follow the ICCPR.35

Israel had claimed in the past that it is not responsible for the protection of the human rights of Palestinians that reside in the OPT.36 It was concluded by the International Court of Justice (ICJ) that the International Covenant on Civil and Political Rights is applicable in respect of acts done by a state in the exercise of its jurisdiction outside its own territory (48).37 In regards to another

---

34 According to the report, the UN treaty bodies which monitor the implementation of the applicable human rights treaties have concluded that the treaties to which Israel is a party are applicable in respect of acts carried out by Israel in the OPT (4).
35 “… despite the legal prohibitions, state actors, notably the Israeli army have committed acts of violence against Palestinian civilians including women, and failed to effectively investigate such incidents and take appropriate measures against those responsible. The State Party has also consistently failed to prevent settler attacks against Palestinians and to take adequate law enforcement measures against Israeli nationals who commit these crimes” (WCLAC, “Alternative Report” 6).
36 In 1998 the UN Human Rights Committee stated that Israel, when preparing its report to the UN Human Rights Committee, claimed that it had had to face the question "whether individuals resident in the occupied territories were indeed subject to Israel's jurisdiction" for purposes of the application of the Covenant (“ICCPR Summary Record” para. 21). Israel took the position that “the Covenant and similar instruments did not apply directly to the current situation in the occupied territories” (“ICCPR Summary Record” para. 27). The Committee expressed concern at Israel’s attitude.
37 The General Assembly requested the advisory opinion of the ICJ.
human rights instrument, the International Covenant on Economic, Social and Cultural Rights, the ICJ’s conclusion was similar, that the territories occupied by Israel have been subject to its territorial jurisdiction as the occupying power (48). Israel’s human rights obligations apply both in peace and times of armed conflict (UN General Assembly, “Report of the Independent International Fact-Finding Mission” 4).38

Furthermore, Israel is a High Contracting Party to the Geneva Convention IV relative to the Protection of Civilian Persons in Time of War 1949.39 Under the Fourth Geneva Convention, Palestinians living under occupation are “protected persons”, and thus the focus of Israel’s obligations under humanitarian law therein (UN General Assembly, “Report of the Independent International Fact-Finding Mission” 5).40

The results of the NGO Yesh Din investigation stating that the majority of cases against Israelis that abuse Palestinians are not dealt with by Israeli justice systems, are evidence of violation of Article 26 of the ICCPR: “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination

38 Also according to the report, “a situation of military occupation prevails in the OPT. As the occupying Power, Israel is bound under international humanitarian law by a set of obligations which are provided for in the Hague Regulations 1907, annexed to the Hague Convention IV respecting the Laws and Customs of War on Land 1907, which are recognized as forming part of customary international law, and Geneva Convention IV relative to the Protection of Civilian Persons in Time of War 1949 (“Fourth Geneva Convention”), to which Israel is a High Contracting Party” (5).
39 The applicability of the Fourth Geneva Convention to the OPT has been established by the ICJ, and has been recognized and consistently reaffirmed inter alia by the Commission on Human Rights, Human Rights Council, Security Council, and General Assembly.
40 International humanitarian law establishes obligations on Israel inter alia concerning humane treatment and physical integrity of the Palestinians as “protected persons”.

21
on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (UN General Assembly).

In 2012, the UN General Assembly concluded the following:

Israel must put an end to the human rights violations that are linked to the presence of settlements … The Mission calls upon the government of Israel to ensure full accountability for all violations, including for all acts of settler violence, in a non-discriminatory manner and to put an end to the policy of impunity ... The Mission calls upon all Member States to comply with their obligations under international law and to assume their responsibilities in their relationship to a State breaching peremptory norms of international law – specifically not to recognize an unlawful situation resulting from Israel’s violations. (“Report of the Independent International Fact-Finding Mission” 22)

**Responsibilities for Prevention of Violence, Enforcement of Applicable Laws, and Redress:**

**The Palestinian Authority**

According to HRW, “Jordanian and Egyptian criminal laws in force in the West Bank and Gaza, respectively, do not effectively prohibit or appropriately punish violence against women and
girls” (Deif and Mair 4). The HRW also describes police officers’ incompetence and lack of ambition to deal with domestic violent incidents.

Furthermore, the Ministry of Health in the OPT has no medical procedures or protocols to guide medical professionals or ministry staff in treatment of domestic violence cases. The PA is also neglecting to supply proper protective mechanisms to shelter victims of violence (Deif and Mair 5).

In November 2012, The PA was recognized at the UN as a nonmember observer state. If the PA wants to be recognized as a member state in the future, it will have to consent to UN human rights standards that were reflected in conventions such as the ICCPR and CEDAW. It is

---

41 “… These laws include provisions that provide a reduction in penalty to men who kill or attack female relatives committing adultery … Government and nongovernmental efforts aimed at overturning these inherited laws and developing unified Palestinian family and penal codes have been hindered by lawmakers’ divisions over critical reforms and the slow pace of passing new legislation during the six years of intifada. The result is virtual impunity for perpetrators of domestic violence and continued obstacles in the way of victims who might otherwise report abuse” (Deif and Mair 4).

42 “Palestinian police officers lack specialized expertise to handle family violence complaints with the level of sensitivity and professionalism required of law enforcement personnel and often turn to informal measures rather than serious investigations and remedies” (Deif and Mair 4). The police officers were often more concerned about the reputations of the families of the abuser and victim that they preferred to “resolve” these issues within the family and not in the court room. They would return the victims to the “care and protection” of their families, most of the time the abuser husbands. The police is male-dominated, and the male officers are from the same patriarchal society that the abusing males are from. The officers are biased against women, don’t believe their claims of abuse and try to discourage them from proceeding with their claims.

43 Doctors lack specialized training and guidance on how to treat victims of violence, preserve evidence of the abuse, and maintain confidentiality. Palestinian social workers reported in interview to the HRW a number of cases of doctors disclosing without consent confidential patient information, putting the lives of victims of violence in danger (Deif and Mair 5).

44 There are too few shelters for victims of violence in the OPT, and according to local women’s NGOs, there are lengthy and restrictive entry procedures imposed by the Ministry of Social Affairs, that sometimes sabotage urgent protection to the victims (Deif and Mair 5).

45 This is not to claim that all UN member states effectively enforce human rights and gender equality. However, the failure of the PA to enforce women’s human rights can be a cause for
important to acknowledge that the Israeli occupation imposes constraints upon the PA that affect the efficiency of enforcing the law.\textsuperscript{46}

Women’s NGOs are making an effort to change the status of women in the OPT and protect women from violence. Among their efforts are trying to change the domestic law, publish reports, contact the UN in search for assistance, run hotlines, and provide legal and social work services for victims of violence.\textsuperscript{47} The Palestinian women’s movement led to the creation of the Ministry of Women’s Affairs (MOWA) in 2003, and the creation of gender desks within various ministries. The MOWA’s mandate includes monitoring the government’s compliance with the terms of gender equality.\textsuperscript{48}

\textit{Responsibilities for Prevention of Violence, Enforcement, and Redress: The United Nations}

I cited the conventions under which Israel is obligated to protect Palestinian women, such as CEDAW and ICCPR. Israel presents periodic reports to the UN about its commitment to the

\underline{human rights organizations to protest to the UN against future acceptance of the PA as a member state, until the PA proves that they are working toward the fulfilment of UN conventions.}\textsuperscript{46} According to HRW, “Israeli army attacks, checkpoints, and closures have wreaked tremendous physical and functional damage on the criminal justice system during the second intifada. As a result, the PA has a limited sphere in which it is able effectively to exercise governmental authority … Israel occasionally has severed all diplomatic ties with the PA, suspended the handover of tax revenues on which the PA monthly budget depends, repeatedly closed border crossings between Gaza and Israel, and detained … Hamas government officials. Many international donors have also cut all direct funding to the PA and the U.S. has severed all diplomatic contact with Hamas-affiliated officials” (Deif and Mair 6).

\textsuperscript{47} A Palestinian Violence against Women Forum of Women’s NGOs was launched in 2002. A network of 13 NGOs is working collectively to combat gender-based violence. Through the Forum, the NGOs have set up an informal referral service so that victims can get specialized advice and services. The Forum is pressing the PA to set up an official governmental referral system. Forum members have also participated in demonstrations, public service announcements, awareness-raising activities, and evaluations of draft legislation concerning violence against women (Deif and Mair 31).

\textsuperscript{48} The Ministry has the authority to review draft laws and propose new ones. However, Ministry staff and women’s NGOs complain that the PA often dismisses the Ministry’s recommendations and that they receive little financial support (Deif and Mair 32).
conventions, but sometimes, according to NGOs and UN reports, the picture Israel is presenting is far from accurate. However, the UN is not only counting on these reports to present the situation in the OPT. The UN accepts reports from NGOs and the Special Rapporteurs publish periodic reports about the OPT. In view of the rising number of cases of violence presented in this paper, these procedures are not sufficient to reduce the violations of women’s human rights in the OPT and other sanctions should be applied.

In 2006 the UN established a center for promoting gender equality in Palestine. The Palestinian Women's Research and Documentation Centre (PWRDC) was established in Ramallah as a Special Project of the United Nations Educational, Scientific and Cultural Organization (UNESCO).

**Methodology**

The core of this study presents a comparison of Palestinian women in Palestine and Aboriginal women in Australia, but I also refer to cases of other indigenous women in marginal socio-political spaces that are excluded from human rights protection, such as Canada and Chile. In both cases of indigenous women in the other countries and Palestinian women, there is an acute problem of violence, political and domestic. According to Niklas Bruun and Barbara Bailey, members of the Committee on the Elimination of Discrimination against Women (CEDAW), “Aboriginal women and girls are more likely to be victims of violence than men or non-Aboriginal women, and they are more likely to die as a result” (“Canada’s Failure to Effectively Address Murder and Disappearance”). I am using Aboriginal women as a comparison to Palestinian women based on the premise that the problem of violence against them is a result of

---

49 Example: WCLAC’s “Alternative Report”.
discrimination that is based on gender, race, culture, nation, or class. Aboriginal people experienced colonialism and still live with the consequences in a post-colonial era, while Palestinian people live under occupation. I focus mainly on Australia because there were a lot of remedies offered to Aboriginal women, some more successful than others, and there is literature in English about them.

The purpose of this comparative study is to offer alternative ways to prevent violent crimes, enforce relevant laws, and provide redress to victims according to a case study of aboriginal women in Australia and around the world and the social and political structure of the OPT. I present remedies for the problem of violence against Palestinian women, expected to be executed by Israel, the Palestinian society, the PA, and the UN as the authority to enforce international law. To achieve my goals for this study I conduct an interdisciplinary research, drawing from feminist, racist, criminal justice, international law, social and political science and legal frameworks.

I analyze the literature available using a variety of resources. The books and articles that are used are mainly of sociology, anthropology, gender, and law disciplines. Although there are not many scholars who write about the application of international law to women in the OPT, there are scholars who write about gender and international law. Top universities in Israel have gender studies programs, such as the Hebrew University’s Lafer Center for Women and Gender Studies. For learning about violence against women in indigenous societies in post-colonial countries around the world I use ethnographic studies and writings of indigenous women.

---

50 One of the leading scholars is Noya Rimalt, a Professor at the Faculty of Law, Haifa University, Israel. Her research focuses on gender, women’s studies, and law.
I also use documents published by the UN, which include reports by the General Assembly and Special Rapporteurs’ reports. Israel has ratified conventions, such as the International Covenant on Civil and Political Rights (ICCPR), and is monitored by the UN. The PA is trying to gain UN recognition to become a member state. Furthermore, the UN has a greater investigative reach than local NGOs, since it has a mandate to investigate human rights violations in member state’s territories, such as Israel and the occupied territories. UN reports that expose the violations of human rights prove that the UN is aware, and even a witness, to the violations, and can be criticized if not addressing them aggressively enough to achieve an improvement in enforcing human rights in the OPT. Other documents used for this research are from Israel, and include periodic reports about Israel’s efforts to execute conventions it ratified, such as the ICCPR. These reports reveal Israel’s level of awareness of the violations of human rights and the level of responsibility Israel had taken in regard to the violations. Understanding Israel’s awareness and responsibility for the situation in the OPT is important for recommending law enforcement tactics.51

I refer to documents regarding human rights violations in Palestine by organizations in the field, such as reports by non-governmental organizations (NGOs). Examples of reports by NGOs are those issued by HRW, Yesh Din, and WCLAC. While the UN has a great investigative reach, sometimes local organizations can get more information due to their contacts and the fact that they are part of the community. This is particularly the case of Palestinian women who are hesitant to speak to authorities, including UN investigators. UN investigators may also be regarded as outsiders, and it is likely that Palestinian women feel more comfortable talking about

51 Example: Israel denies its obligations to enforce human rights in the OPT. The UN should make Israel’s responsibilities vs. the PA responsibilities clear, and come up with a plan to make sure that Israel is fulfilling its obligations.
these very sensitive issues with investigators from inside their community. I believe that by comparing UN reports with local NGOs’ reports, a wider picture of the reality in the OPT is revealed. I use official reports from Australia discussing the problem of violence against Aboriginal women.

Media coverage is instrumental for this research. Sometimes reporters have classified information that may not be included in reports by the UN, Israel or NGOs. This information can help in understanding the situation in the OPT. The media can be biased, but news sources expose the discourse about these issues in Israel, Australia, and in different places in the world about issues I refer to in this study. Media coverage reveals essential information regarding local initiatives.

According to the findings presented in this chapter, violence against women is a troubling phenomenon in the OPT. The purpose of this study is to examine ways to address the issue of violence against women, through learning from policies in other sections of the world. Since women live in fear daily and are victims of abuse, finding ways to prevent violent crimes, enforce relevant laws, and provide redress to victims is urgent. Violence against Palestinian women is underrepresented in public discourse and international law discourse concerning the occupied territories.52 It is important to prioritize this issue in academic and public discourses.

---

52 This phenomenon of underrepresentation of violence against women is not unique to the OPT. According to Charlesworth and Chinkin, “The great level of documented violence against women around the world is unaddressed by international legal notion of the right to life because that legal system is focused on “public” actions by the state. A similar myopia can be detected also in the international prohibition on torture” (72).
Conclusions

Women in Palestine are generally not being protected efficiently by the political authority that is supposed to protect them according to international law (Israel), by their own Palestinian Authority, or by the UN. The marginality of Palestinian women is an obstacle for preventing violent acts, enforcing relevant laws, and offering redress for victims. In the next chapter I examine the struggle of Aboriginal women, who were also neglected by their assigned political authority, and present solutions for protection of the human rights of Palestinian women based on the Australian experience.
Chapter II: The Struggle of Aboriginal Women in Australia

In the previous chapter I discuss the unique socio-cultural and political features of the lives of Palestinian women that make them marginal. There are other marginal groups in the world. While each group has its own unique features, there are similarities as well. In this chapter I present the features of Aboriginal women that make them marginal and the similarities with Palestinian women. I discuss the problem of violence against women in Aboriginal communities in Australia and solutions that were offered to solve it by the international law framework, Australian authorities, and Aboriginal communities.

Australia was occupied by different Aboriginal clans for thousands of years prior to the arrival of Europeans. The European invasion of Australia in 1788 brought changes in various aspects of Aboriginal lives, such as political, cultural, and economic. The British Colonial Office shaped the earliest policies, then the several colonial governments held independent jurisdiction over Aboriginal people. Aboriginal matters were managed by police and prison departments, by health departments, and separate offices known variously as Office of Aboriginal Affairs, Native Welfare, etc. Colonial development and law dispossessed aborigines of their land and most of their economic self-sufficiency (McGrath and Stevenson 40).

In their study, “Gender, Race and Policy: Aboriginal Women and the State in Canada and Australia”, McGrath and Stevenson acknowledged that the new political sphere the Europeans created changed the status of Aboriginal women in their communities:

53 Each group includes various sub-groups with different features. For the purpose of this study, I generalize the groups, Aboriginal women in Australia, Palestinian women, and Israeli women. I address the main features they share.
Women were officially designated as dependents whose status as Indians could be unilaterally and irrevocably enfranchised by their fathers or husbands. This regulation was a major affront to women’s autonomy because women had no authority or recourse if their fathers or husbands “sold” them out of status. (44)

… The state and the churches in Canada and Australia viewed the personal autonomy of indigenous women as a major threat to the Christian patriarchal order they intended to impose. Accordingly, traditional marriage and mothering patterns, the right of women to divorce (and remarry), and their sexual autonomy came under harsh attack. (45)

McGrath and Stevenson linked these conditions to violence against women. They claimed that the combination of dominant models of alcohol consumption, western-style marriage, and extreme economic and social disadvantage, led to oppressive circumstances for Aboriginal women, including an increase in domestic violence. European laws were aimed to make the conditions in Aboriginal communities similar to the European ones:

While from the 19th century, the “status of women” was used by western societies as the primary index of civilization, the Indian Act and Aboriginal Acts indisputably and perhaps ironically became the tools by which female status and autonomy were undermined and almost destroyed. Potentially, they reduced Aboriginal women towards the condition of her Euro-Canadian counterpart – landless, economically and politically dependent. (53)

54 The enfranchisement provisions remained in effect until 1985.
The “reduced status” made women more vulnerable to abuse and less independent. In a news article from 2015, it was reported that “statistics show Aboriginal and Torres Strait Islander women are 34 times more likely to be hospitalized and 11 times more likely to die from an assault” (Anderson).

**Violence against Aboriginal Women in Australia**

For Australia’s indigenous population there is a desperate struggle for survival; cultural, physical, and economic. For Aboriginal women, the struggle for physical survival has taken on a greater urgency. The violence to which Aboriginal women are subjected has reached epidemic proportions, and it has been argued that it constitutes a continuing violation of human rights. (Andrews 917)

Andrews, in her important study titled “Violence against Aboriginal Women in Australia: Possibilities for Redress within the International Human Rights Framework”, described the problem of violence against Aboriginal women by people from outside their communities and from within the communities. She discussed possibilities for redress within international law framework as well as local solutions to the problem. Her research inspired this study due to the similarities between the circumstances Andrews described of Aboriginals in Australia in general and Aboriginal women in particular, and circumstances of Palestinians and Palestinian women:

The problem of violence against Aboriginal women incorporates an array of factors: race, gender, the after effects of colonialism, the minority status of Aboriginal people, the unequal access to societal resources, and consequent unequal development of Aboriginal communities … Aboriginal women have been reluctant to expose conflict within their communities to outside scrutiny which might not always be sympathetic. (918)
… For Aboriginal people, who are marginalized in this geographically marginalized society, the struggle for land rights, recognition of cultural rights, self-management, or other permutations of sovereignty, involves an increasing engagement with the international human rights framework. (921)

Both the Aboriginal societies and the Palestinian society are marginal within a larger authority – “white Australia” and Israel, accordingly. According to Andrews, Aboriginal women’s status as women made them more vulnerable to sexual exploitation from the settlers outside their communities, similar to Palestinian women who suffer from violence from outside their communities, from Israeli soldiers and settlers. Andrews mentioned evidence suggesting widespread sexual abuse of Aboriginal women at the hands of police officers. She emphasized the lack of confidence that Aboriginal people have in the Australian legal system, stating that one of the sources for this lack of confidence is the legacy of brutality and dispossession sanctioned by law during the colonial period. The issue of violence against Aboriginal women in the criminal justice system in Australia was almost completely ignored. As I expressed earlier in this study, Palestinians lack confidence in the Israeli authorities, and their criminal cases are not receiving appropriate attention to bring the complaints to justice. Similar to Israel, Australia is also a member of legally binding UN conventions, such as the ICCPR and CEDAW that include protection of human rights that are violated by violence.55

Andrews presented a combination of factors as the cause of violence against Aboriginal women: “colonial attitudes toward all Australian women, patriarchal values prevalent in Australian society, and the differing sex roles and status in indigenous society that have resulted in the

---

55 Australia ratified the ICCPR on 13 August, 1980, and CEDAW on 28 July, 1983.
subordinate status of Aboriginal women”; “the breakdown of traditional social control due to the imposition of foreign influences and societal structures”; “the appalling socio-economic conditions within which many Aborigines find themselves; the abuse of alcohol in many communities” (928). These circumstances are not unique to Australia. According to UN experts there are high levels of violence against Aboriginal women in Canada, and “the violence inflicted on Aboriginal women is often rooted in the deep socio-economic inequalities and discrimination their communities face and which can be traced back to the period of colonization” (“Canada’s Failure to Effectively Address Murder and Disappearance”).

Andrews mentioned the significant gains achieved by Australian feminists in the last few decades, reflected by pieces of legislation, such as the Sex Discrimination Act, the Affirmative Action for Women Act, the legislative incursions into violence against women and pay equity. However, according to Andrews, these gains for non-Aboriginal women have not necessarily been translated into gains for Aboriginal women (930). 56 This can also explain the lack of confidence Aboriginal women feel towards Australian authorities, who treat them differently from non-Aboriginal women, in some cases. 57 Off Our Backs: A Women’s Newsjournal, reveals the stigma toward Aboriginal women and its consequences:

56 Similar to Israel, the protection the majority of Israeli women are entitled to by Israeli law is not projected to Palestinian women.
57 Off Our Backs: A Women’s Newsjournal reported in a 2003 article titled “Australia: Judge Calls Aboriginal Girl’s Rape ‘Traditional’” that an Australian judge ruled that an Aboriginal man’s rape of an Aboriginal girl was a “traditional practice”. According to the judge, Justice John Gallop, the 15 years old Aboriginal girl “knew what was expected of her”, and her rapist was merely “exercising his conjugal rights in traditional society” (4). In 2007 The Guardian reported that “A judge in Australia was facing calls to step down today after she failed to jail a group of nine males who admitted gang-raping a 10-year-old girl in an Aboriginal community, saying the young victim "probably agreed" to have sex with them” (McMahon). According to The Guardian, “Indigenous leaders said it sent a terrible message to vulnerable girls and women living in fear in their communities” (McMahon).
Aboriginal women are reluctant to report abuse to police because Australian law enforcement officials habitually side with Aboriginal rapists and abusers, validating abuse of Aboriginal women as merely “cultural behavior” … Feminists … say that Aboriginal tradition has been distorted. Feminists also complain that government lawyers help defendants in such cases, but not the women who are victims. (4)

Palestinian women also expressed lack of confidence in the authorities and a lot of the violent cases are not reported.

There is tension between Australian law and Aboriginal customary law.\textsuperscript{58} The Guardian quoted Stuart MacMillan of the Aboriginal Resource and Development Services in the Northern Territory, as saying that “In traditional communities, people consider themselves to be members of a clan nation whose laws they have assented to, rather than an Australian nation by which they have not agreed to be ruled. They don't see why they should have anything to do with Australian law” (Fickling). According to the Guardian, “Human rights advocates are uneasy about many aspects of traditional law, and many Aborigines are equally opposed to all of it being recognized” (Fickling). There are cases of abused women calling the police, which show a desire for justice and protection from Australian authorities.\textsuperscript{59} In the next section I discuss remedies

\textsuperscript{58} Australian common law “does not provide an appropriate general basis for the incorporation or recognition of Aboriginal customary laws”, although there are “various ways in which Australian law can now be said to recognise Aboriginal customary laws and traditions” (Australian Government, Australian Law Reform Commission, “Recognition”). One example of Australian law recognizing customary laws is when courts take customary laws into account in determining sentences.

\textsuperscript{59} Who advocates maintaining Aboriginal law? Do Aboriginal men try to keep the power and their higher status in Aboriginal society? These questions are not in the scope of this study but are worth mentioning in this context.
offered to the problem of violence against Aboriginal women and present solutions offered by international law, Australia, and Aboriginal communities.

**Remedies**

1. **International Law**

   As I claimed in chapter I, international law framework offers instruments that were established to protect people in general and women in particular from violence. The challenge is the utilization of these instruments for the protection of marginal women. According to Andrews, “the international human rights framework provides an empowering point of reference for human rights activists within the local setting. Aboriginal people have utilized this human rights environment to internationalize their struggle and garner strategic victories” (932). A specific example within the international human rights framework is the United Nations Working Group on Indigenous Populations.60 According to the OHCHR, the mandate of the Working Group was “to review developments pertaining to the promotion and protection of the human rights and fundamental freedoms of indigenous populations” (“Mandate of the Working Group”).

   There are, however, limitations to international law as a tool to protect violence against marginal women. The utilization of international law poses challenges for women activists. Charlesworth and Chinkin referred to gender and international law, stating that it “developed in an unbalanced and partial manner and promises much more to men than to women. This phenomenon is partly

---

60 According to the OHCHR, “The Working Group on Indigenous Populations, which was established pursuant to Economic and Social Council resolution 1982/34 is a subsidiary organ of the Sub-Commission on the Promotion and Protection of Human Rights and meets annually in Geneva … The Working Group consists of independent experts and members of the Sub-Commission - one from each of the geopolitical regions of the world. The Working Group is open to all representatives of indigenous peoples and their communities and organizations” (“Mandate of the Working Group”). The Working Group advised the Human Rights Council on mechanisms to protect indigenous people’s human rights.
due to male domination of all international human rights fora, which itself fashions the substance of human rights law in accordance with male values” (68-69). This androcentric international law framework is too Western and fails to incorporate the economic, ethnic, racial, religious, and cultural factors which impinge on women’s identity. My study is based on these differences, such as the differences between Aboriginal women and white women and Australia, and the difference between Palestinian women and Israeli women.61

Andrews referred to technical obstacles to the successful use of international law for the protection of violence against marginal women:

> Although the pursuit of human rights through United Nations or regionally mandated procedures are theoretically possible, and symbolically positive, the enforcement procedures provided in various human rights instruments are constrained by lengthy time periods between initial reporting and final outcome. The paradigm designed to ensure a thorough investigation of all the relevant facts, and local exhaustion of remedial procedures, renders swifter conclusion of the complaints procedure almost impossible. (935)

Andrew emphasized that the utilization of international law is not accessible to all:

> The process demands access by individuals who are schooled in, or at least familiar with, this formal, legalistic paradigm. The inability to acquire such access provides a formidable obstacle for many women trapped in dire economic and social circumstances and who conduct their lives in a foreign language. (935)

---

61 Even within the main groups we can find culturally different groups, such as ultra-orthodox women in Israel.
Andrews refers to the degree of effectiveness of international law in regard to Aboriginal women in Australia, by claiming that “the dissonance between the universe of formal law and rights and the material reality of marginalized peoples are stark in the Australian context … Aboriginal women display little faith in the criminal justice system. They constantly face both the dilemma of negotiating the daily exigencies of violence, and the need for some form of protection, with a skepticism of official (police) interference in their communities” (936). This criticism of international law framework means that “we have to promote and engage in a human rights discourse that recognizes multiple identities and multiple agendas; that an Aboriginal woman can utilize an international agenda to end violence in her community, while simultaneously demanding some semblance of self-determination for her people” (Andrews 937). The UN Working Group of Indigenous Populations was a result of a realization that there is a gap between international law and marginal people’s need and serves as an attempt to fill the gap and find a solution within the framework of international law.\(^62\) Another more recent attempt is the UN Indigenous Peoples’ Partnership (UNIPP), the United Nations’ initiative to promote and protect the rights of indigenous peoples, aiming to strengthen their institutions and ability to fully participate in governance and policy processes at the local and national levels.\(^63\)

\(^{62}\) The Working group last formal session was in 2006. In 2007, the Human Rights Council established the Expert Mechanism on the Rights of Indigenous Peoples under Resolution 6/36 to provide the Human Rights Council with thematic advice, in the form of studies and research, on the rights of indigenous peoples (“Expert Mechanism”).

\(^{63}\) According to a UN press release from 2011, “UNIPP will help address these problems and other social, economic and political issues by working with governments and indigenous peoples’ organization through various means including training, promotion of dialogue, the establishment of consultative processes, legislative review and reform, as well as conflict prevention. UNIPP brings together the experience and expertise of the International Labour Organization (ILO), the UN Development Programme (UNDP), the UN Office of the High Commissioner for Human Rights (OHCHR) and the UN Children’s Fund (UNICEF)” (UNICEF).
2. Australia

In the last few decades, the Australian government experimented with solutions to the problem of the under-representation of Aboriginals, men and women, in government bodies. Aboriginal self-government did not exist on mission and government-owned reserves. Only in the 1970s were local community councils introduced, along the western-style municipal model. Following this model, male presidents were usually elected, and men formed the majority on most councils, which enforced male dominance in the public sphere. McGrath and Stevenson describe the process of including indigenous representation in government bodies:

In the 1970s the Australian federal government attempted to create a representative national Aboriginal body along a democratic model. The first attempt, the National Aboriginal Council, lacked real power and was disbanded. In the late 1980s a wider organization, the Aboriginal and Torres Strait Islander Commission (ATSIC) was set up to replace the white-dominated Department of Aboriginal Affairs. Although several Aboriginal men have sat in state and federal parliaments, few female Aborigines have been elected. The Minister for Aboriginal Affairs has never been an Aboriginal person, always a white man. (52)\(^4\)

The Aboriginal and Torres Strait Islander Commission (ATSIC) was an amalgamation of the Department of Aboriginal Affairs and the Aboriginal Development Commission. The ATSIC

\(^4\) McGrath and Stevenson stated that “the leading Aboriginal, Lois O’Donaghue, chaired ATSIC during crucial times, but leaders of the powerful land councils continue to be exclusively male. At a grass-roots level, and also in regard to key positions such as Marcia Langton’s appointment to the Chair of the Institute of Aboriginal and Torres Strait Islander Affairs, Aboriginal women do play an increasingly important role” (52).
was supposed to ensure maximum participation of Aboriginal people in the formulation and implementation of government policies that affect them. Following some controversy and doubts as to the value of continuing ATSIC, certain of its fiscal powers were transferred to Aboriginal and Torres Strait Island Services (ATSIS) in 2003. The government eventually decided that funding for indigenous programs would be returned to the relevant departments of state and the ATSIC was abolished on 24 March 2005. Prime Minister John Howard was quoted as saying that “the experiment in separate representation, elected representation, for indigenous people has been a failure” (Shaw). He also said that ATSIC had become "too preoccupied with what might loosely be called symbolic issues and too little concerned with delivering real outcomes for indigenous people" (Shaw). The new plan was for the Government to appoint a group of "distinguished indigenous people" to advise it. Programs would be handled by mainstream departments, with funding dedicated to indigenous issues.

Today, the department that is in charge of safety and wellbeing programs is Indigenous Affairs, Department of the Prime Minister and Cabinet (DPMC): “The Australian Government will work together with Aboriginal and Torres Strait Islander people, so individuals and communities can build their future their own way. Having a safe community to live in is critical to closing the gap in Indigenous disadvantage” (Australian Government, DPMC). One of their goals is to achieve a reduction of offending, violence, and victimization in communities. The Aboriginal Family Violence Prevention and Legal Service in Victoria (FVPLS Victoria) is also an example of a department dealing with violence against Aboriginal women.\(^65\) In the past seven years they conducted 98 of the Sisters Day Out workshops, a program supporting Aboriginal women.

\(^{65}\) FVPLS Victoria was established in 2002.
experiencing family violence, and more than 7,000 women have attended (Anderson). It is funded by the Victorian Government.

The Sisters Day Out workshops are days of fun intended for women who suffered from violence against them. The women get services by hairdressers and manicurists, but there are also family law experts and counsellors, ready to advise them. The workshops encourage Aboriginal women to report family violence and support them through the process. Antoinette Braybrook, the Chief Executive of the Aboriginal Family Violence Prevention and Legal Service in Victoria, said the workshop created a space for women to speak about violence and break down the associated stigma. "We use the pampering as a hook," she said. "It's just about breaking down those barriers, building trust and confidence in the many services that are out there and letting women know that there are services out there that can help" (Anderson). Braybrook said that these workshops were independently evaluated and the results were that this program is successful and helpful to Aboriginal women. A participant in one of the workshops reported that it helped her with the process of leaving a violent partner. She was quoted as saying that, "It was about for me being around other women, getting strength, day by day on top of counselling that I was doing as well … You take away these workshops, then Aboriginal women are going to be less likely to report domestic violence and step out of that situation” (Anderson).

The stigma and fear of women to discuss domestic violence against them is common in testimonies of Aboriginal women in Australia and Palestinian women in Palestine. Some members of the Aboriginal communities believe that admitting that there is a problem will destroy the image non-Aboriginals like to hold of Aboriginal people leading peaceful lives in their communities. Some Aboriginals believe that they must manage their own affairs and non-Aboriginal people are therefore not allowed to intervene, or even voice an opinion. There is even
a degree of denial within Aboriginal societies. Prominent Aboriginal politician and passionate crusader against violence, Bess Price, stated that “We Aboriginal people have to acknowledge the truth” (Dillon). Acknowledging the problem of violence against women is an important step toward finding successful solutions. If Aboriginal people want the government to keep funding programs for women, they need to make sure the government is informed and that their needs are public.

The decreasing economic status of Aboriginal people is one of the factors that are associated with the causes for violence. Helping Aboriginal communities become economically sustainable can potentially reduce violence. Anthony Dillon, a researcher with the Institute for Positive Psychology and Education at the Australian Catholic University, expanded on the connection between socio-economic status and violence:

This does not mean abandoning traditional ways and mindsets; nor does it entail assimilation. It means a focus on good education and real jobs - not pretend job … Employment provides individuals with opportunities for connecting with others and contributing to the good of others. Knowing that one makes a valuable contribution to others is the bedrock of healthy robust feelings of high self-worth. And feelings of high self-worth are the best prevention of violence and other self-defeating behaviours.

Dillon emphasized that while Australia should invest in “after the fact” assistance to victims, they should also try to prevent violence in the first place:

Problems in Aboriginal Australia are problems in Australia. These are issues that all Australians have a right - and a duty - to be interested in. The Commonwealth
has made a recent large financial investment in tackling domestic violence. While a portion of that money can be used for shelters and legal services, the bulk of it should be invested 'upstream' to help lift people … out of poverty into places where there is opportunity - opportunity to learn, grow, work, and play.

Alcohol misuse was also identified as one of the factors leading to family violence (Australian Government, Australian Institute of Criminology). Some of the solutions offered to solve the problem of misuse of alcohol in Aboriginal communities are counselling, education programs and support to Aboriginal people and their families (Government of Western Australia. Drug and Alcohol Office).

A 2013 report issued by the Australian Institute of Health and Welfare and Australian Institute of Family Studies recommended “situational crime prevention” strategy “which includes good street lighting, appropriate housing design, availability of relevant amenities, closed circuit television and reduced access to alcohol. It can play a critical role in improving safety, particularly when used in conjunction with other programs” (Van Doeland 4).

3. Aboriginal Communities

There are several local initiatives by Aboriginal communities intended to deal with violence against women. According to Andrews, “these local programs represent continuing efforts by Aboriginal women to locate culturally appropriate methods of redressing violence often within the context of unrelenting poverty and desperation … These projects draw inspiration from … traditional indigenous structures, where separate spheres provide the context for cultural

---

66 The local initiatives are mainly targeted to deal with violence of men from within the Aboriginal communities.
expression for men and women” (940). Among the programs are community policing initiatives, including night patrols run and staffed by women, women councils, and women’s refuges.

Aboriginal community night patrols emerged in the late 1980s in the Northern Territory community of Tennant. In Tennant Creek, community patrols were established by the indigenous community. In Yuendumu in the 1990s, community night patrols were instigated by indigenous women to help protect the community which they thought is not protected enough by intervention from mainstream justice systems. In other communities, patrols emerged to address over-policing in order to divert indigenous people from unnecessary contact with the criminal justice system (Van Doeland 6).

The 2013 report issued by the Australian Institute of Health and Welfare and Australian Institute of Family Studies referred to collaboration between Aboriginal communities and the government as essential for success:

Community patrols are one of a number of initiatives that aim to improve community safety and reduce harm … the available evidence suggests they can reduce juvenile crime rates, alcohol-related harm and crime and the number of police lock-ups. They have also been shown to increase perceptions of safety, improve partnerships and cultural understanding between indigenous and non-indigenous communities and empower the local community … Most community patrols in Australia are initiated by the local community. To be successful, patrols need strong community support and control as well as government support. Not only do patrols need adequate resourcing themselves, they also need well-resourced local police and other services to which they can refer. (Van Doeland 14)
The functions of community patrols may include:

(a) Transportation of people to a family member’s home or their own homes, a designated safe house … a women’s refuge or another type of support service

(b) Dispute resolution

(c) Mediation

(d) Follow-up case work

(e) Liaison with relevant service and agencies

(f) Liaison with the local police unit

(g) Contribution to community safety planning and implementation (Van Doeland 6)

Another initiative is the funding of women’s councils. One of the councils is the Ngaanyatjarra, Pitjantjatjara and Yankunytjatjara (NPY) Women’s Council. They work with victims of domestic and family violence and sexual assault and offer various services, such as encouraging victims to report violent incidents; acting as liaison with the local police; advocating and educating in issues of violence against women (Whiting).

The establishment of women’s refuges, such as the Edith Edwards Women's Centre in Bourke, is an inspiring example for local initiatives. The women of Bourke recognized the need for a local refuge at the beginning of the 1980s, but were unable to get funding from the government. They were assigned a worker to help facilitate a transfer of women and children in need to a refuge that was not nearby. This solution was not acceptable for the women, as they thought it was not helpful in cases of a brief separation of the women from their abusers. Without government funding, they turned to other organizations in search for donations, and received enough donations, mainly from churches, to establish their own refuge. They decided to make the address of the refuge known in the community, and started to educate members of their
community about the refuge. They reached out especially to grandmothers, who traditionally provided refuge. They decided that the refuge will be available for short and long terms and for women with and without children. The Edith Edwards Women's Centre was opened in 1992. It was managed by women for women. The women said it was unlikely that the refuge would be threatened by men, since a large proportion of the volunteers were respected elderly women with standing in the community (Alvares 183-184).

There are different normative patterns of behavior in response to violence against women in different cultures. In her research in the Arnhem Land Aboriginal community (Mangrove), Burbank recognized patterns of aggression and violence of women toward men:

… A remark that Aboriginal women from a community in northern Australia made to the anthropologist Elizabeth Povinelli. Following a television program on domestic abuse in the West, they turned to her and asked, “Why don’t white women fight back?” I believe that women at Mangrove would have made a similar remark to me had we watched the program together. (158)

Burbank recognized the assumption that women’s aggression in Mangrove, the community she studied, can be as a reaction to violence from men, but she also claimed that sometimes women’s attacks on men represent motives other than self-defense. She suggested that women at Mangrove initiate aggression against men because the norms of their community permit and encourage such behavior. She stated that women, like men, have learned that anger is appropriately expressed through aggressive behavior. Burbank viewed women’s overt aggression, in some circumstances, as a positive, enhancing act: “when we deny women their aggressive possibilities, we potentially diminish their being” (1).
The women Burbank interviewed recognized that the public nature of fighting provided them with an important safeguard. When people fight in public, there is usually someone around to stop the fight. However, sometimes men continue the fight at home, and in those cases women are not protected. It is not only the public nature of fighting that provides women with protection, but also the fact that they know that family members will come to their defense if they perceive imminent injury. The women of Mangrove expect members in their community to protect them from serious harm.

While feminist groups in Australia sometimes reach out to Aboriginal women, some Aboriginals feel that historically they received little support from non-Aboriginal women, who have been involved in the marginalization of Aboriginal women and in the denial of their human, civil, political, legal, and sexual rights. Feminist groups occasionally ask Aboriginal women to attend events as guest speakers, to set up displays of artwork, or to speak about Aboriginal spirituality. Some Aboriginal women feel that such practices focus on cultural expression and the perceived exotic elements of Aboriginal culture. They feel that their presence as Aboriginal women can operate as a form of tokenism and entertainment for non-Aboriginal women. According to Fredericks, in the article “Reempowering Ourselves: Australian Aboriginal Women”, non-indigenous women gain more from the meetings than Aboriginals. Non-indigenous women can say that they were trying to include Aboriginal women, while it helps protect the interest of non-

---

67 Burbank included a story of a man and woman fighting in front of people and the woman was not injured. Later on when the woman was alone with the man he locked the house door and stabbed her with a spear (156).

68 Richards confirmed this notion for indigenous women in Chile as well: “Even when indigenous women are physically present at debates about human rights, their unique positions are frequently marginalized by those who set the terms of discussion. Nonindigenous feminists often attempt to subsume indigenous women’s interests within their political views or accuse them of defending sexist cultural practices” (201).
indigenous women in order for them to maintain their values and privileges within the dominant patriarchal white society. For Aboriginal women, however, it can falsely lead into believing that those non-indigenous women involved are seriously attempting to make changes. Fredericks implied that Aboriginal women who raise concerns are positioned as angry or as aggressors (“Reempowering Ourselves” 547). Fredericks conclusion was that Aboriginal women should empower themselves and not wait for non-indigenous women to rescue them. Fredericks defined the concept of empowerment as “increasing people’s power over things influencing their lives” (“Which Way That Empowerment?” 4). She stated that, “Aboriginal women cannot and will not become empowered if we keep being spoken to, being spoken for and spoken about. It is through Aboriginal women’s voices being heard and being enacted that Aboriginal women will become empowered. There must be processes in place which foster confidence building, education and true inclusion and not tokenism” (“Which Way That Empowerment?” 11).

**Conclusions**

In the last few decades there were several attempts to prevent violence against women and offer assistance to Aboriginal victims in Australia. The still high number of cases of violence is evidence that finding a solution is a challenge. This does not mean that it is time to stop trying – the opposite. It means that societies should learn from other societies’ successes and failures to come up with suitable and more effective solutions. There can be value in studying projects that failed, to learn what does not work and therefore not repeat the same mistakes but to think of what can be altered. In this chapter I present projects that were less successful and projects that showed positive results. In the next chapter I apply lessons learned from the case study of Aboriginal women in Australia to Palestinian women, taking into consideration the similarities and differences between the two groups.
Chapter III: Recommendations for Supporting Palestinian Women’s Struggle

The preceding chapters present a grim picture of the struggle of Palestinian women against violence. In the first chapter I review factors of the marginality of Palestinian women and political and domestic violence, and discuss the legal framework relevant to the violation of Palestinian women’s human rights. In the second chapter I present the case study of Aboriginal women in Australia: the circumstances that led to the rise in violence against women and solutions that were offered to deal with the problem. In this chapter I bring in some hope by claiming that there are ways to support the struggle of Palestinian women to prevent violent crimes, enforce relevant laws, and provide redress to victims. I discuss the remedies offered to and by Aboriginal women in Australia, and indigenous women in other post-colonial countries in the world, with their struggle, as recommendations for Israel, the United Nations, the Palestinian Authority and Palestinian society to deal with violence against Palestinian women. According to Andrews, “For Aboriginal women, as indeed for all women on the margins, the process should be a circuitous one; extrapolating from both indigenous or local methods and an expanding global human rights framework, and simultaneously influencing the content, enforcement mechanisms, and indeed the tone of the human rights infrastructure” (941). While taking under consideration the local circumstances of Palestinian women, I analyze various ways for preventing violent acts, enforcing laws, and providing redress for victims.

Israel

At this stage of the conflict between Israel and Palestine it is unlikely that the Israeli government will act to prevent, enforce, and redress violence against Palestinian women in the OPT. While the Australian government is dealing with post-colonial circumstances, Israel is not. The occupation is still going on. Palestinian people are not expected to assimilate with Israelis, and
there are talks on both sides, and in the international community, of the two-state solution, where the OPT will no longer be part of Israel. Between Israel and Palestine there is an on-going armed conflict, and therefore, unlike the Australian government, it is unlikely that Israel will appoint a group of Palestinian people to advise it in matters of human rights in the OPT. It is unlikely that the Israeli government will establish a department similar to The Aboriginal Family Violence Prevention and Legal Service in Victoria, to deal with violence against Palestinian women. It is also unlikely in this state of conflict that Israel will act to improve the financial status of Palestinians which, as I pointed out in chapter II, was recommended in Australia as a factor to reduce violence. The unlikely acts that I enlisted can be potential remedies if the Israeli government decides to address the violations of women’s human rights in Palestine, which can be a result of international pressure to do so.69

The United Nations

One of the mandates of the UN is its commitment to the protection of human rights around the world. The UN has the resources and the authority to investigate and report human rights violations through the Office of the High Commissioner for Human Rights in accordance with

---

69 An example of international pressure is the sanctions on Iran. According to the US Department of State, “In response to Iran’s continued illicit nuclear activities, the United States and other countries have imposed unprecedented sanctions to censure Iran and prevent its further progress in prohibited nuclear activities, as well as to persuade Tehran to address the international community’s concerns about its nuclear program. Acting both through the United Nations Security Council and regional or national authorities, the United States, the member states of the European Union … and others have put in place a strong, inter-locking matrix of sanctions measures relating to Iran’s nuclear, missile, energy, shipping, transportation, and financial sectors.” In July 2015, a landmark nuclear deal was signed. According to the New York Times, “Iran has pledged to let in international monitors to inspect its facilities for the next 10 years and other measures that were devised to guarantee that its nuclear energy activities are purely peaceful.” As a result, the UN voted to lift its sanctions on Iran (Sengupta).
international law. Finding the facts and reporting them is an important task which should provide means of finding remedies to the violations of human rights.\textsuperscript{70}

There are UN offices and bodies that are responsible for protecting human rights. The Human Rights Council is an inter-governmental body within the UN system responsible for strengthening the promotion and protection of human rights around the world and for addressing situations of human rights violations and making recommendations on them. The human rights treaty bodies are committees of independent experts that monitor implementation of the core international human rights treaties.\textsuperscript{71} These bodies may be crucial in processing results of fact finding missions to Israel and the OPT, but recommendations are not enough. The UN OHCHR publishes periodic reports titled “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967”. The end of each report is usually reserved for recommendations to the Israeli government. However, there is no apparent effort by the Israeli government to implement the recurring recommendations and the reports constantly reveal violations of human rights.\textsuperscript{72}

As I present in the first chapter, the Israeli government did not act according to the recommendations and even claimed to not be responsible to the OPT. It is time to consider using

\textsuperscript{70} UN reports condemning the violations of Palestinian women’s human rights may not make a difference in Israel’s policy, but they can be encouraging and act as a moral support for Palestinian women’s struggle.
\textsuperscript{71} As I presented earlier in this study, Israel denied responsibility for the human rights of Palestinians in the OPT. Since the UN holds Israel responsible, it will be important to demand a country report to CEDAW from Israel that includes the status of Palestinian women in the OPT.
\textsuperscript{72} According to a 2015 UN General Assembly report, “The Special Rapporteur’s observations and interactions with victims and witnesses living in the Occupied Palestinian Territory in the several months since assuming his mandate suggest that the protection that international humanitarian law and international human rights law should be providing for civilians, including children, across the Occupied Palestinian Territory is distressingly absent” (Wibisono 20).
UN bodies that have the authority to make a difference and pressure Israel and even the PA to prevent, enforce, and redress acts of violence against women. The UN Security Council, for example, deals with grave human rights violations, often in conflict areas. The UN Charter gives the Security Council the authority to investigate and mediate, dispatch a mission, or appoint special envoys. The Security Council can opt for enforcement measures, such as economic sanctions, arms embargos, financial penalties and restrictions, travel bans, and the severance of diplomatic relations. While the Security Council usually interferes in times of armed conflict and wars, the situation in the OPT was caused as a result of a conflict and there is still a conflict going on.

The UN established a special working group dealing with indigenous people’s human rights, the United Nations Working Group on Indigenous Population and later the specialized Expert Mechanism on the Rights of Indigenous Peoples. This was a result of an understanding that there should be a localized perspective when dealing with indigenous populations. I recommend initiating a working group for Palestinian women that takes into account their unique status as occupied people. The Third Committee of the General Assembly at the UN discusses questions relating to the advancement of women, indigenous issues, the treatment of refugees, the promotion of fundamental freedoms through the elimination of racism and racial discrimination, and the right to self-determination. The Committee also addresses important social development questions. This essence of this committee is to recognize the unique needs of marginal people and a specific group for Palestinian women under this Committee can be beneficial to make sure that Palestinian women get a fair representation at the UN. The working group can and should include representatives from the Commission on the Status of Women (CSW) at the UN. This
commission is the principal global intergovernmental body dedicated to the promotion of gender equality and the advancement of women.

In the first chapter I include reports from local NGOs that were presented to the UN and UN reports condemning the violations of Palestinian women’s human rights in Palestine. That was the end of it, but should have been the beginning. A working group that includes representatives from various UN bodies will reflect the needs of Palestinian women for a customized solution. UN experts dealing with gender, race, indigenous people, economy, and conflict regions, should work together to represent truly the marginality of Palestinian women and work toward the elimination of violations of human rights.

To make sure that Palestinian women are heard, the UN special working group can include local consultants. There are local NGOs in the OPT that present reports about human rights violations to the UN, like Yesh Din, a volunteer organization working to defend the human rights of the Palestinian civilian population under Israeli occupation. Bringing in consultants from the field who know the communities is essential to the true representation of Palestinian women and to finding a custom solution to the problem of violence against women. A special UN working group dedicated for the protection of Palestinian women’s human rights has the potential to be able to address the struggle of Palestinian women in the right combination of international, as part of the UN, and local, with regional experts.

Another way to ensure the contribution of the UN to the struggle of Palestinian women is by pressure from non-UN organizations, such as local and international NGOs. In 2013 the UN sent experts from CEDAW to conduct a confidential inquiry into allegations by a Canadian NGO that Aboriginal women in Canada faced systematic violations of their rights (“Canada’s Failure to Effectively Address Murder and Disappearance”). In the Canadian case it was a local NGO that
influenced the UN to investigate, and there are international NGOs that aim to protect human rights around the globe. Amnesty International, for example, is a global movement of people fighting injustice and promoting human rights, and has tools for raising public opinion about human rights violations. They initiate campaigns, including events and fact finding missions, for protecting human rights all over the world. There are also feminist movements that can pressure the UN to find solutions. However, as we saw in the example of Aboriginals in Australia, marginal women often do not trust feminist organizations and see them as Western and not representative of localized Aboriginal needs. Even though feminist movements made a tremendous difference in women’s rights in various places in the world, I believe that only feminist movements that understand that not all women around the world are the same can contribute to this struggle and be helpful toward the protection of Palestinian women’s human rights.

**Palestinian Society and the Palestinian Authority**

This section presents recommendations for preventing violent acts, enforcing relevant laws, and providing redress for victims which could be carried out by Palestinian society and the PA. They are based on remedies offered to marginal women around the world, especially remedies offered to Aboriginal women in Australia.

The Sisters Day Out workshops, an initiative of the Aboriginal Family Violence Prevention and Legal Service in Victoria, were proven by independently evaluated studies to be successful and helpful to Aboriginal women. Local NGOs can conduct similar workshops to support women, empower them, and educate them about domestic and political violence with the help of lawyers and social workers. In an all-woman environment that will not be suspicious to men, women will feel protected. While in Australia they used pampering as a hook for these days out, in Palestine
they can use pampering as well as other hooks, such as Quran and bible studies, workshops about raising children, issues about the home in communities where women are expected to stay in the private sphere, and issues like getting education in communities where women wish to be active in the public sphere. Support groups and professionals will help women report cases of violence and will assist with mediation if necessary. This potentially will increase the likelihood of victims reporting acts of violence.

There should also be seminars in work places for women and men about violence against women to increase awareness and recruit participants in the effort to prevent, enforce, and redress. Participants can help in activities such as workshops and patrols, and can be more helpful as individuals in everyday life if they witness or hear about acts of violence. Palestinian society needs to understand that violence against women is not something that can be hidden. It is not private even if it is done indoors, but is a problem that must be dealt with by Palestinian society.

The PA can initiate a “situational crime prevention strategy” that includes improved street lighting and closed circuit televisions in high risk neighborhoods. This will assist both in cases of domestic violence and political violence. It will allow neighborhood patrols to detect acts of violence better. When violence is done outdoors and somebody is watching, victims are more likely to get help. Seminars about violence awareness will instruct men and women what to do in case they encounter violence. Furthermore, in cases of political violence, having footage of assaults can improve law enforcement and redress for victims. If Israel or the PA fail to carry out effective investigations and prosecutions the footage can be released to international human rights organizations and the media, and win public support. This, hopefully, will be threatening enough to prevent cases of violence, both domestic and political. Once there are consequences there is likely to be a decrease in violent acts. Having hard evidence of violence will also
pressure Israel and the PA to enforce the law and assure redress for victims of crimes. This is bound to raise the level of confidence in the judicial system.

Aboriginal community night patrols were established by the indigenous community in collaboration with the government, which contributed to the success of the patrols to increase the perception of safety. Patrols were successful due to strong community support as well as government support. The PA can work with local groups to ensure the success of the patrols. Ideally patrols will include men and women. Women should have family ties to the men to decrease suspicions of inappropriate relations. In very conservative neighborhoods, night patrols consist of male members only. Similar to neighborhood patrols in Aboriginal communities, Palestinian patrols may include the following functions:

(a) Transportation of women to a family member’s home, their own homes, a designated safe house, or another refuge

(b) Dispute resolution and mediation. Well-trained patrol members can help mediate and resolve minor disputes

(c) Liaison with local police units

Female patrol members can be a source of comfort for female victims. Another effect of patrols is deterrence, which can lead to fewer violent acts.73

---

73 There is already an infrastructure for volunteer-based patrols in the OPT. According to Al-Jazeera, “Palestinian communities in the occupied West Bank have increased night patrols around their towns and villages. It is in response to the killing of an 18-month-old Palestinian and his father in an arson attack that was blamed on Israeli settlers.” I recommend night patrol for domestic violence, not political violence by Israeli settlers, since the volunteers are not armed. In domestic violence, public humiliation within the community can be intimidating enough in some cases to prevent violence or assure law enforcement.
Another initiative of Aboriginal women that can be helpful to Palestinian women is the funding of women’s councils. Similar to Aboriginal women’s councils, Palestinian women councils can work with victims of domestic violence and offer various services, such as the following:

(a) Establish centers for women in community centers, religious centers, or even private homes
(b) Facilitate community education in community centers, PA offices, work places and religious gathering places
(c) Collaborate with other local and international organizations to improve response to violence
(d) Provide emergency travel, safe accommodation, clothing and food
(e) Offer health care support
(f) Provide counselling and emotional support, individually and within support groups
(g) Help victims with the process of reporting assaults to the authorities and support in court.
(h) Fight the societal stigma associated with reporting domestic violence to the authorities
(i) Conduct community workshops and seminars for women and adolescent girls
(j) Conduct workshops for health practitioners, lawyers, and social workers on recent topics related to the needs of the community
(k) Raise fund for councils, patrols, refuges, workshops, seminars, and other initiatives
(l) Raise funds for families where the offender is the only breadwinner in the family

There is an infrastructure for women councils in Palestine. The Women’s Centre for Legal Aid and Counselling (WCLAC) is an independent Palestinian, not-for-profit, non-governmental organization. The mission of the WCLAC is to develop a democratic Palestinian society based
on the principles of gender equality and social justice. The organization has special consultative status with the UN Economic and Social Council (ECOSOC) and works on some of their initiatives with the PA.\textsuperscript{74} The WCLAC is devoted to “contribute to the protection and empowerment of women suffering discrimination and violence” (WCLAC, “About Us”). For this purpose, it offers the following services: legal advice, court representation, social support and counselling; emergency protection shelter for women victims of domestic violence; awareness-raising: conducting workshops promoting women's rights to men and women. Reviewing Aboriginal models for these services can be helpful and also potentially expand the services the WCLAC currently offers.\textsuperscript{75}

In a 2015 novel by Yossi Yonah, titled \textit{Not Good Time for Love}, one of the main characters is a Palestinian woman psychologist who established a center for empowerment for women in Palestine. Yonah described how the center helped a young woman who escaped her abusive husband. Yonah is known for his activism for dialogue between Israelis and Palestinians, and his book, written in Hebrew for mainstream Israelis, expresses that. The book represents issues that Palestinian women deal with, and has the potential to contribute to public opinion in the support of empowerment of Palestinian women if translated to other languages. Fiction books can describe centers for empowerment of women in an easy-to-read way, and raise moral and financial support.

\textsuperscript{74} The WCLAC’s emergency protection shelter for women victims of domestic violence was formally designated by the Palestinian Authority (PA) in the West Bank as the primary referral center for women escaping or at critical risk of domestic violence.

\textsuperscript{75} Currently they offer one shelter, which is an incredible achievement by itself and is a result of a decade of struggle. Aboriginal women found various ways to fund and maintain shelters, such as the Edith Edwards Women's Centre in Bourke. Reviewing business models for refuges around the world may be helpful to Palestinian women organizations.
Women councils can also arrange meetings with other women’s empowerment groups of societies with similar cultural background, such as Jordanian women. They can represent methods of empowerment of Aboriginal women for inspiration so that Palestinian women will know that there are other women in the world with similar characteristics dealing with similar issues. Not all seminars should be about violence directly, but can use other methods to deal with violence, such as art. Encouraging art projects, such as creative writing and painting, can not only attract more women to meetings but can be used to raise public awareness, both domestic and international. Participating women can express themselves in various artistic ways. Translating materials written by local women to various languages can be useful to transfer ideas and to make sure that women’s voices are heard. Connecting Palestinian women with indigenous women from around the world may also be conducive to support and exchange of ideas.

I also recommend the establishment of women’s refuges. The example of the Edith Edwards Women’s Centre in Bourke that was founded by women for women for long and brief separation of women from their abusers is an inspiring model. Some Palestinian women are not safe with their family since their family members may be threatening them. Palestinian women should know that they have someone to contact for protection. Unlike the Bourke example, I think that the location of protected homes in Palestine should remain anonymous. In Bourke the presence of respected women in the society was enough to ensure that the refuge was safe, but it will not work in the Palestinian society where there are cases of violence in the name of “family honor”. Churches were helpful in Bourke with financial support, and may be helpful in Palestine as well. Professionals from women councils and other NGOs can help women and their children in these situations and mediate with the victim’s family when necessary.
When discussing Palestinian honor, it is important to understand the cultural aspect. Diane Baxter suggested that, “rather than a “code,” which implies a system of rules and regulations, honor is a wide-ranging, dynamic, multi-stranded ideology about “right living” (738). She explained the cultural aspects of patriarchal care:

Many Palestinian women consider the support, care, and love they receive from male family members to be deeply gratifying. They see themselves as powerful and subordinate, assertive and diffident. Still, for Palestinians who view their lives as intertwined with family members … controlling and punishing is valued, if it is enacted appropriately, and is seen not primarily as an exercise of power, but rather as a set of responsibilities that, if fulfilled (ideally) brings respect, stability, peace and honor to the family. (765-766)

Palestinian society can use positive aspects of the honor system and other cultural beliefs and customs to empower women and encourage men to keep them secure and safe from harm. Palestinian society can use the social aspect of honor to protect individual women in a positive way, by preventing and not causing violence. Most Palestinian men are not violent and serve as protectors for women, and this should be the norm. Strengthening already established positive cultural customs is more successful and effective than trying to create new ones, and recommendations for remedies should respect Palestinian society’s customs and values.76

Palestinian women are part of a society that is already struggling for human rights, and they should use the same discourse that is used by the people in their struggle against the occupation

76 Richards emphasizes the importance of respecting the local culture when discussing indigenous women in Chile: “In the case of domestic violence, they seek solutions that respect Mapuche values and norms” (210).
for the struggle against violence as well. This strategy was used by Mapuche women in Chile, as they “seek to draw attention to their particular rights as women while participating in the movement for justice for the Mapuche people. In doing so, they demonstrate that women’s rights and indigenous rights are not static or oppositional; their meanings can be reinterpreted and extended to simultaneously respect cultural difference and honor universal principles” (Richards 217).

The recommendations above require financial resources. If the authorities will not support the initiative financially, it will be local and international NGOs responsibility to raise money. They can use various methods like media coverage and advertising and the use of social media. Another way to raise money and support, and even empower women, is participating in events and panels presenting the problem of violence and empowerment plans. There is a risk of tokenism, as Aboriginal women felt when they were invited to feminist events. This does not mean that events should not be considered, but that events should be selected carefully. Events in universities and events sponsored by human rights organizations can be helpful to get media attention and gain public awareness and support, and may also be helpful for fundraising efforts.

Karima Bennoune was an Amnesty International delegate in July 1996, when she traveled to Pakistan and Afghanistan’s capital city of Kabul, prior to its fall to the Taliban. During her visit she interviewed many women who had been victims of Mujahideen groups. She later revealed

---

77 Richards stated that other women can use Mapuche’s strategies in dealing with their struggle for the protection of their human rights: “The case of Mapuche women has implications for the struggles of other indigenous women and groups (such as racial and ethnic minorities, immigrants, and religious women) who similarly seek to articulate their rights while remaining loyal to the beliefs and values of a people as a whole” (218).
their private stories in *Human Rights* journal and by doing so gave them voice and recognition in the US and around the world. Bennoune shared her experience:

I was only able to hear these stories because of the work of the Afghan Women’s Council, which brought the women together in their clinic and helped gather their testimony. In Peshawar, Pakistan, the Council publishes a newsletter and runs both a clinic and a school for Afghan refugees … there are a number of other Afghan women’s groups and initiatives … which has several thousand members and advocates for Afghan women’s rights, and the Afghan Women’s Network, which publicizes the plight of Afghan women internationally … the most lasting image I have of Afghanistan is of these intrepid women, ignored by the international community, threatened at home, but determined to make a difference. (“Who Takes Responsibility?” 4, 6)

Making a difference in their lives is the empowerment of women by women.

I mentioned mediation as a method to resolve domestic disputes. Mediation is a non-legalistic alternative to prosecution in court, and is criticized for reinforcing the view of battering as a private matter (Presser and Gaarder 175). Both the legal model and the mediation model determine the options available to victims. Mediators direct participants toward a single outcome, reconciliation, and the law determines the outcome without counseling with the victims. There is, however, another option for resolving domestic disputes: restorative justice.

---

78 For political violence the only method I recommend for law enforcement and redress for victims is the legal method.
Restorative processes are those in which offenders, victims, and others affected by a crime, participate in resolving matters arising from the crime, often with the help of a facilitator. There is a diverse range of practices and programs under the restorative justice model. 79 Mediated meetings between victims and offenders, victim impact statements, and court ordered community service are among restorative practices. This model aims to promote restorative outcomes, such as reparation for harm, re-establishing relationships, healing of victims, and reintegration of offenders into the community. The processes under restorative justice are meant to empower victims to make informed choices and hold offenders accountable for their actions (Hargovan 48). Restorative justice draws on existing traditional, indigenous and religious ways of dealing with disputes, and therefore may be more acceptable to traditional societies such as communities in Palestine. It is used in Canada, for example, in order to provide a more culturally appropriate method for resolving disputes for Canadian indigenous peoples (Hargovan 49). They use sentencing circles that are similar to family group conferences, but are more likely to focus on community group problems in which criminal incidents are embedded (Presser and Gaarder 182).

The restorative justice method acknowledges the importance of localization and that different societies need different solutions for law enforcement and redress for victims of crimes. Different countries created various models under the umbrella of restorative justice, e.g., the conferencing model in New Zealand; the dispute resolution models in the USA; sentencing circles in Canada; citizen panels in the USA and Canada; victim-offender mediation in USA, UK, Germany and Austria (Hudson 616).

79 The most common expressions of restorative justice include victim-offender mediation and family group conferencing (Presser and Gaarder 182).
Restorative justice processes involve the victim in active strategies for taking control and changing her situation. According to Presser and Gaarder, “First, the victim is empowered in that participation is her choice completely … Other options, including legal recourse, are always available. Second the victim plays an active role in the proceedings, such as by choosing those support persons who will accompany her and perhaps speak on her behalf. The victim is recognized as an actor in past, present, and future events in her life” (183). Controlling one’s life is a key requirement for empowerment. Presser and Gaarder also emphasize the value of the community to restorative justice:

Communities provide support and enforcement; both are deemed necessary to stop the violence and to repair the harms caused by it. Community support is believed to prevent domestic violence … Friends, families, and neighbors support the victim by acknowledging her violation and by offering concrete help in the future. The community also regulates the behavior of abusers. Several studies find that arrest deters deviance more in the context of social disapproval. Social disapproval and support are regulatory mechanisms in the restorative justice model. The offender is held to stopping his misconduct and is supported to do so. (183-184).

Restorative interventions are sometimes viewed as a ‘soft’ response that fails to punish, and possibly to recast the offence as a relationship problem (Hargovan 51). I claim that domestic violence is not a private matter but a public one. It is a problem of the society when it includes members who do not respect other members’ human rights. I view restorative justice and mediation as public, not private, methods. In some cases of domestic disputes mediation and restorative justice can be more respectful of the victims' needs than the legal method. It depends
on the circumstances, but restorative justice can be in the best interest of the victims and the society as a whole. In cases like when the victim lives with other family members that can assure her safety and if the offender goes to counselling, for example, it may be beneficial. This is the case in Palestinian society where women often live with elderly family members. Furthermore, the percentage of reports of violent crimes against Palestinian women is low. Restorative justice has the potential to increase the victims’ likelihood of reporting violent incidents since it offers an array of flexible interventions. These provide an alternative to women who do not trust the criminal justice system (Presser and Gaarder 186). In many cases women are supported financially by the male offenders. A protected mediation or restorative process may be the most suitable solution in those cases.

The major risk of applying mediation and restorative methods is that the well-being of the victims is due to the level of success of the process which depends on people from the community. There are a lot of variables to determine how to use mediation and restorative justice:

Restorative justice practices range from those that are ‘fully restorative’ to ‘partially restorative’. Fully restorative practice may include the participation of all direct stakeholders … A restorative practice with only the victim or offender is a partially restorative practice … Restorative processes directed towards offenders, and sanctioned by the formal criminal justice processes, may result in positive outcomes, namely the prevention of further violence. Presiding officials need to explore innovative and appropriate sentencing options, such as community service and correctional supervision … The sentence can include an order which requires the offender to pay medical and other services that the
victim may need to access. A suspended sentence, with conditions that the perpetrator attends an appropriate therapeutic programme that is focused on the multiple aims of rehabilitation, retribution, reintegration and restoration, is another option. (Hargovan 52-53).

There is evidence that generally restorative justice offers more to victims than traditional criminal justice processes (the legal model): victims report high levels of satisfaction with reparative agreements; they have reduced levels of fear; and they seem to have an improved understanding of why the offence occurred and its likelihood to occur again. There is also evidence that generally restorative justice expects more of offenders than traditional criminal justice processes: offenders feel involved in the process; they have the opportunity to tell their story; they understand and agree with the decisions made about how best to deal with the offending; they see restorative justice processes and outcomes as fair; and they are satisfied with both these processes and outcomes (Morris 611-612).

If done correctly, restorative justice may be the most effective enforcement and redress method for Palestinian society in cases of domestic violence. Even though some would like to follow their human instinct of punishing the abuser.\textsuperscript{80} I believe in being smart, not right. Restorative justice potentially gives victims a chance to be at the center of this process, telling their story in their own way. Offenders are given the opportunity to change their behavior, perform community service, or compensate the victims. Restorative justice should assure victims’ safety, victims’ choice, and offenders’ accountability. Quality assurance and the setting of minimum

\textsuperscript{80} Restorative justice programs in the USA, for example, place mandatory burdens on offenders in response to breaches of specific social norms. Dzur claimed that “even if it is not called ‘punishment,’ what occurs in restorative justice agreements is structurally identical to textbook definitions of punishment” (7).
standards of practice are essential (Hargovan 55). Ultimately, restorative justice procedures would require initiative and commitment on the part of the PA, together with sustained collaboration with and support for community-based and grassroots initiatives. If that happens, restorative justice can be another way for Palestinian women to empower themselves by choosing to use restorative justice and be the deciding point-person in the process.

**Conclusions**

While Israel is responsible for Palestinian women’s human rights according to international law, it is unlikely in the present state of conflict between Israel and Palestine that Israel will voluntarily invest resources for the prevention of violent acts, law enforcement, and redress for victims of violence against women in the OPT. The UN repeatedly condemned Israel for the violations of human rights in the OPT and Israel did not present remedies. Only by international pressure there is a chance for a change in the Israeli government’s policy. International pressure can be a result of advocacy of NGOs around the world or the UN. In the meanwhile, there are remedies that can be executed by the PA and the Palestinian society that have the potential to prevent violent crimes and provide redress to victims. Some of the remedies are on a national level, to be carried out by the PA, and some are more local and can be executed by members of the Palestinian society. A collaboration between the PA and Palestinian society is ideal for executing most of the recommendations successfully.

---

81 Presser and Garder stated that “there are clear risks in applying restorative justice approaches to battering. Chief among them is the risk of framing such violence as not important enough to warrant serious attention, lest the gains of feminists be lost.” (186). Therefore it is important to assure quality of processes, set minimum standards, and promote it to the community accordingly.
The scope of this study is to prove that a comparison between marginal groups around the world can be beneficial to finding remedies to violence against women. While I offer remedies in this chapter for preventing violent acts, enforcing laws, and providing redress for victims, further research should be performed to uncover additional ideas according to the comparison model and specific character of the Palestinian society for a successful execution of the remedies recommended.
Chapter IV: Conclusions

This study is inspired by Penelope Andrews’ article, “Violence against Aboriginal Women in Australia: Possibilities for Redress within the International Human Rights Framework.” Andrews explored the circumstances of Aboriginal women in Australia that make them marginal and therefore more vulnerable to violence and lack of enforcement of crimes and redress for victims. Andrews carefully examined the international human rights framework and the strengths and limitations of international law as applied to marginal women. She referred to ways of law enforcement and redress for victims by the international law framework and local initiatives. She mentioned lessons from Black communities in South Africa as valuable lessons in the context of violence against Aboriginal women (939). Andrews’ conclusion was that Aboriginal women in Australia are in need of customized remedies according to their marginal features. This conclusion is my guiding line for this study.

Since Aboriginal women have been dealing with the problem of violence as a marginal group for many years, their experience is potentially beneficial to other marginal groups, such as Palestinian women. In the first chapter I reviewed the background of Palestinian people in general and Palestinian women in particular. I explained the problem of violence against women by Israelis, settlers and soldiers, and by Palestinians, mainly family members of the victims. I presented the circumstances that make Palestinian women marginal. I continued the chapter with the legal framework related to the violation of Palestinian women’s human rights. I reviewed human rights violations associated with violence against women, and responsibilities for law enforcement, redress for victims and prevention of violent acts by Israel, the PA, and the UN. I ended the chapter with the methodology of this study. Chapter II was dedicated to the struggle of Aboriginal women in Australia. I reviewed the circumstances of Aboriginal people in Australia
and Aboriginal women, the problem of violence against Aboriginal women, and the similarities with Palestinian women. The rest of the chapter presented remedies offered by International law, Australia, and Aboriginal communities for dealing with the problem. Chapter III is dedicated to a synthesis of the solutions offered to Aboriginal women and their level of compatibility to Palestinian women. Learning the differences between indigenous women around the world and Palestinian women for this study became another way to learn about Palestinian society’s special features in pursuit of remedies for violence against women. According to these features I recommended remedies that can be executed by Israel and the UN, but mainly the PA and Palestinian society.

When I first started thinking about the hypothesis for this research, I assumed that most of my recommendations will be directed toward Israel. I believed that since Israel is the authority obligated to protect the human rights of Palestinians in the OPT according to international law, it is plausible that I direct most of my recommendations to the Israeli government. Only after researching the background and the history of Palestinian women’s human rights violations and empowerment methods of indigenous people in Australia and other places in the world, I realized that my initial thoughts represented an ideal that will not work in reality.

In the third chapter I doubted the Israeli government’s intention to make a voluntarily effort to protect the human rights of Palestinian women in the current state of conflict. I claimed that only international intervention, such as UN pressure, can help make a change. Even this will require an alteration of UN procedures toward the violations of human rights in the OPT from the current procedures that were proven not extremely effective. These findings are not very encouraging but, to my surprise, I discovered a whole different approach to dealing with the problem of violence against women in the OPT.
While I was still under the impression that the solution will come from Israel and the UN, I did not think I would have many recommendations for Palestinians. As the marginal group, with political disadvantages of being occupied and the marginal status of women, I did not think that they can make a difference. However, while studying other marginal groups, mainly Aboriginal women in Australia, I realized that empowerment can come from within the society, even if it means that there is a need for outside support.

I accept the definition presented by Fredericks to empowerment as “increasing people’s power over things influencing their lives” (“Which Way That Empowerment?” 4), and believe that in the same way that it is possible for indigenous communities around the world, it is possible for Palestinian women. When I defined Palestinian women in the first chapter as vulnerable, I emphasized that it means that they are more likely to suffer from violations of their human rights due to their marginality. Vulnerable, in this context, does not mean weak or powerless, and with the right strategy and community and international support, Palestinian women can be powerful and in control of their lives.

My conclusion is that since it is not realistic to believe that Israel will voluntarily act to ensure human rights of Palestinian women without international pressure in this state of conflict, it is best to channel resources and efforts toward self-empowerment from within the Palestinian society and international support for the self-empowerment. All remedies adopted for the purpose of preventing violent acts, enforcing laws, and providing redress for victims should be with respect to the unique features and circumstances of Palestinian women.


Australian Government. Department of the Prime Minister and Cabinet. “Safety and Wellbeing


Fredericks, Bronwyn. “Which Way That Empowerment?: Aboriginal Women’s Narrative of


McGrath, Ann, and Winona Stevenson. “Gender, Race, and Policy: Aboriginal Women and the


"Shari'ah". *Encyclopædia Britannica. Encyclopædia Britannica Online.* Encyclopædia Britannica


