

# Rule of Law through a Gender Lens

## The Fight for Justice and Gender Equality



By Randa Siniora

**A**s a human rights defender and feminist activist, I have learned, through more than 35 years of professional experience, that rule of law constitutes the cornerstone of good governance and democracy.

This can only be achieved by gender equality and the inclusion of everyone, particularly society's most vulnerable groups. Experience also proves that women's rights are human rights and that these rights can only flourish and grow in an environment where democracy prevails, rights and freedoms are respected, and access to justice is made available to all without discrimination. It is also in the best interest of women and girls to join forces with all other democratic elements in society to set forth the basis of rule of law, democracy, and respect for human rights and freedoms.

There is no doubt that only within a democratic, pluralistic environment can we achieve a win-win situation, where the political system can maintain itself, ensure its sustainability, preserve safety and public order for all citizens, and ensure that both duty-bearers and rights-holders are well aware of their rights and obligations. This can be achieved through the separation of powers and ensuring that the executive authority does not encroach on the legislative and judicial authorities. Rule of law is only achieved when all citizens, men and women, can resort to the law and the judiciary to guarantee their rights and be assured that the legal and judicial system ensures equality, is free of discrimination, and respects human rights.

We all fully understand that the Israeli military occupation is the root cause of all problems within the occupied Palestinian territory (oPt) and the main obstacle to enjoying our rights, be they civil, political, economic, social, or cultural. It goes without saying that due to the occupation, we face serious challenges in achieving our right to self-determination and a sovereign Palestinian state

with full control over our land and resources. Palestinian women, however, face multiple layers of oppression as women living under occupation. They face a double jeopardy of structural patriarchy and



Artwork by Monther Jawabreh.

colonial occupation, particularly in terms of traditional sexual division of labor and the unpaid care-duties that women undertake within the family and society. The Palestinian government cannot justify violations of human rights and women's rights under the pretext of occupation, especially after the accession of Palestine to numerous international human rights conventions and treaties, including the Convention

on the Elimination of All forms of Discrimination against Women (CEDAW). Palestine holds a legal obligation to ensure respect for human rights, specifically women's rights, and it is also legally bound to take all necessary administrative, constitutional, and legislative measures to ensure gender equality, the rule of law, respect of rights and freedoms, and access to justice for all citizens. The Palestinian official duty-



■ The author in front of the Court of Appeal in Ramallah-al-Bireh while observing the court proceedings of the murder of Suha al-Deek by her husband.

bearers often justify their reluctance to pass the Family Protection Bill and/or their lack of commitment to their legal obligations under CEDAW and other human rights principles, under the pretext of the “social and cultural specificity” of our society and the controversial debate that is created within society every time there are efforts towards the harmonization of national legislation with international human rights principles. The Palestinian government backs up its argument by Constitutional Court Decision No. 4 of 2017, which states that “international treaties and conventions would not be enforced if they opposed the Palestinian religious and cultural heritage.” During the review of the initial report of Palestine, the CEDAW committee confirmed that, despite this ruling, the State of Palestine remains legally bound to abide by CEDAW. This was further reiterated in the concluding remarks and recommendations of the CEDAW committee. In my opinion, within

the existing patriarchal structures, governments have the “due diligence” responsibility to address negative social and cultural norms by taking concrete measures to remedy any discrimination and/or prejudice against any individual or social group, and hence have the legal obligation to take all necessary measures to ensure gender equality and the protection of women from gender-based violence (GBV).

On more than one occasion, Palestinian feminists and human rights defenders have witnessed inaction and reservation in taking meaningful measures to protect activists and their organizations when attacked by conservative elements within society. Women and girls have often been left alone to fight political and social conservative elements who, in turn, at times defamed them, incited against them, and indirectly allowed for violence against them only because these

women and girls called for policies and legislation based on gender equality, and measures to protect women and girls who are victims of GBV. Palestinian women activists had to fight their battles on their own and were left at the forefront to fight against all counter-campaigns and gender stereotypes that militarized themselves with negative social and cultural arguments that undermine women and girls and relegate them to a lower status only because of their gender. Official statements made by government officials and official duty-bearers during these counter campaigns against the passage of the Family Protection Bill (FPB), for example, reflected indirect violations of women’s rights by complicity, omission, or inaction. Officials have

ignored the urgent need for the law to protect women victims of GBV or potential victims of femicide, as they continued to pass hundreds of less important laws by presidential decrees that hold the power of law. All our efforts in lobbying and advocacy towards the adoption of this law and the amendment of numerous other legislations that clearly discriminate against women were in vain, thereby obstructing the rights of women to access justice.

In a recent study conducted by the Women’s Center for Legal Aid and Counseling and based on Palestinian court rulings in 22 cases of GBV and murder attempts, we concluded that the discriminatory legislation, combined with the high



■ Artwork by Abed Abdi.

level of discretion given to the judges and the privileges that men enjoy through patriarchal structures that are deeply rooted in customs and traditions, as well as the mentality of the judges, were all factors that discourage women from resorting to courts to lodge their complaints and also reduce their expectations of accessing justice through the law and judiciary. In almost all instances it seems that women were pressured by family and society to withdraw their cases. Perpetrators were given light sentences and some cases were even dropped after waving personal rights, while the public prosecution did not pursue public interest rights in most of the cases. Women breaking the silence and lodging complaints or filing cases received the message that the judicial

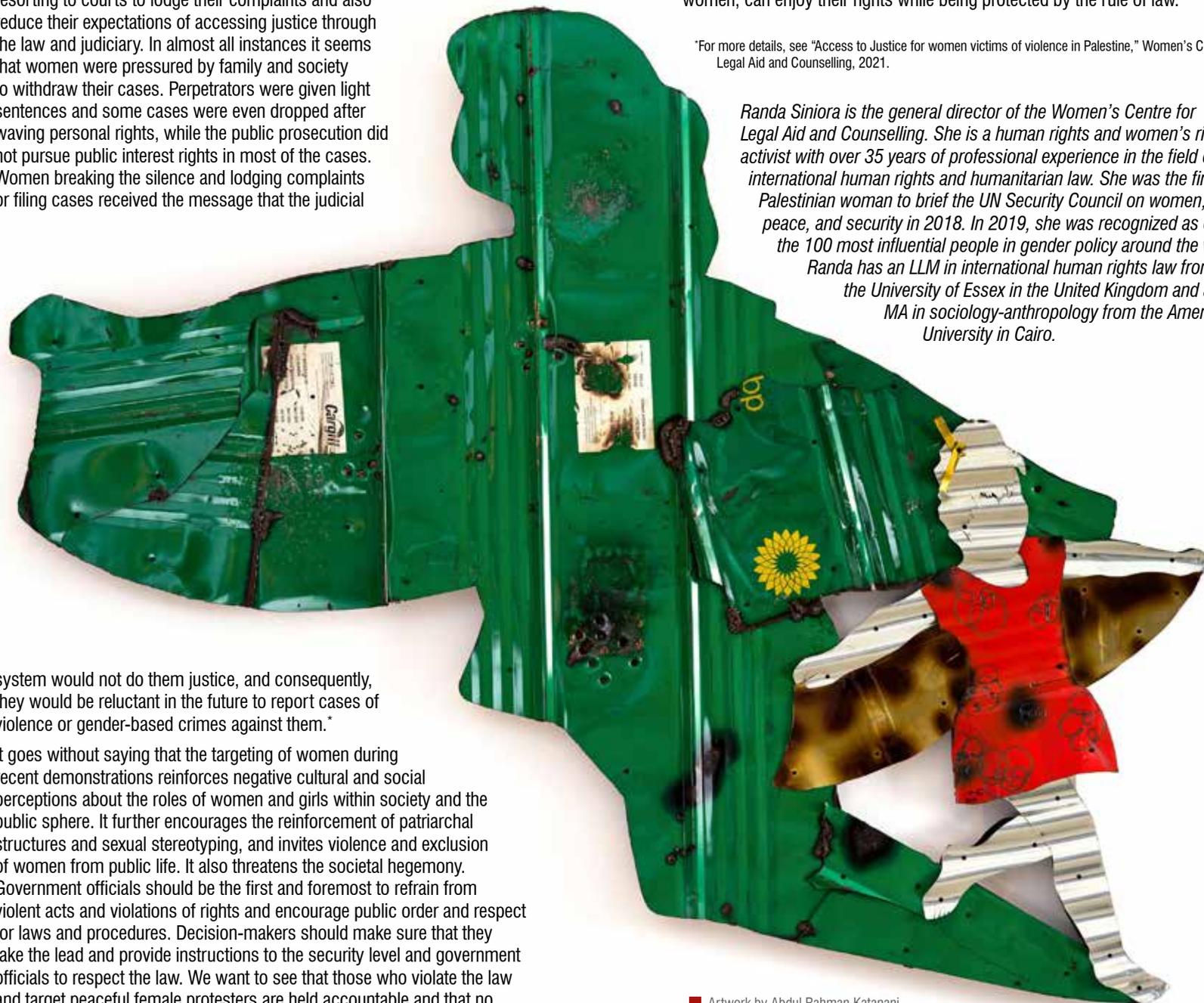
one is above the law. We Palestinians – officials, decision-makers, and ordinary citizens – want to direct our attention towards our main enemy, the occupation, which means ending the prolonged military occupation. We also want to pursue our efforts to build a democratic and just society where all citizens, men and women, can enjoy their rights while being protected by the rule of law.

\*For more details, see "Access to Justice for women victims of violence in Palestine," Women's Centre for Legal Aid and Counselling, 2021.

*Randa Siniora is the general director of the Women's Centre for Legal Aid and Counselling. She is a human rights and women's rights activist with over 35 years of professional experience in the field of international human rights and humanitarian law. She was the first Palestinian woman to brief the UN Security Council on women, peace, and security in 2018. In 2019, she was recognized as one of the 100 most influential people in gender policy around the world. Randa has an LLM in international human rights law from the University of Essex in the United Kingdom and an MA in sociology-anthropology from the American University in Cairo.*

system would not do them justice, and consequently, they would be reluctant in the future to report cases of violence or gender-based crimes against them.\*

It goes without saying that the targeting of women during recent demonstrations reinforces negative cultural and social perceptions about the roles of women and girls within society and the public sphere. It further encourages the reinforcement of patriarchal structures and sexual stereotyping, and invites violence and exclusion of women from public life. It also threatens the societal hegemony. Government officials should be the first and foremost to refrain from violent acts and violations of rights and encourage public order and respect for laws and procedures. Decision-makers should make sure that they take the lead and provide instructions to the security level and government officials to respect the law. We want to see that those who violate the law and target peaceful female protesters are held accountable and that no



■ Artwork by Abdul Rahman Katanani.