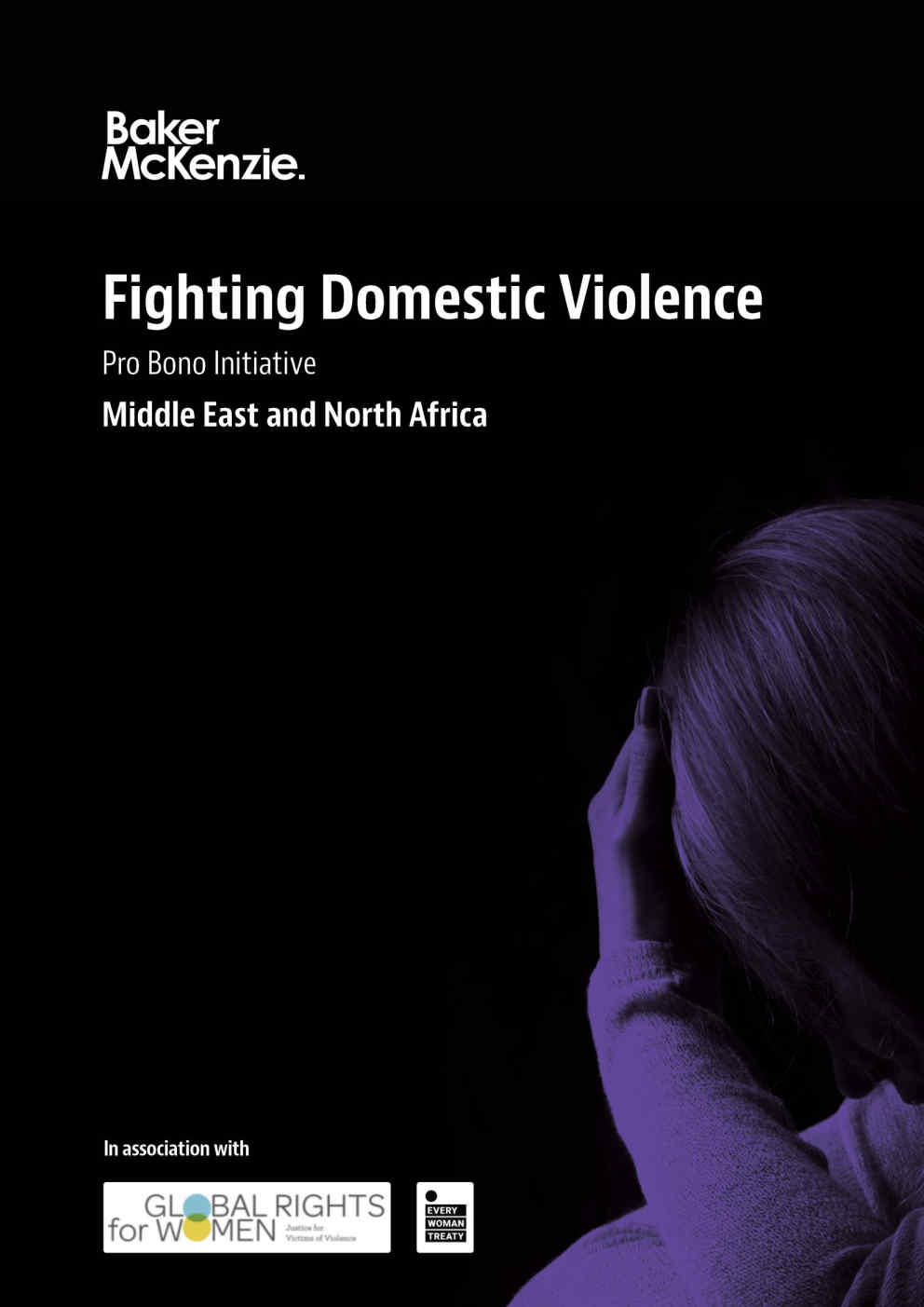
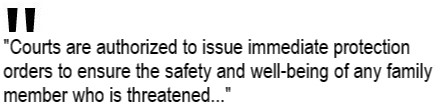
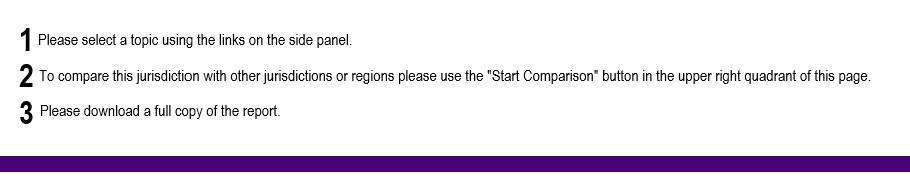
Fighting Domestic Violence - Israel

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**How to use and navigate this report**

# 1. Legal provisions

## 1.1 What are the relevant statutes and codes?

The relevant domestic violence legislation is as follows:

[Basic Law of Human Dignity and Liberty](https://www.knesset.gov.il/laws/special/eng/basic3_eng.htm)

[1977 Penal Act](https://www.icj.org/wp-content/uploads/2013/05/Israel-Penal-Law-5737-1977-eng.pdf)

[Prevention of Family Violence Law, 5751-1991](https://www.icj.org/wp-content/uploads/2013/05/Israel-Prevention-of-Family-Violence-Law-5751-1991-eng.pdf)

Prevention of Threatening Harassment Law, 5762-2001

Prevention of Sexual Harassment Law, [5758-1998](https://mfa.gov.il/mfa/aboutisrael/state/law/pages/prevention_of_sexual_harassment_law_5758-1998.aspx)

Rights of Victims of Crime Law, 2001

We have used the following sources to inform our understanding of the general rules and legal framework:

Ministry of Justice of Israel on "Violence in the Family"[1]

UNHCR on Israel: Domestic violence, including legislation; state protection and support services available to victims (March 2010-January 2013)[2]

## 1.2 What is the controlling case law?

N/A

## 1.3 What are the specific parts of the court system that address domestic violence?

The following courts are responsible for domestic violence cases:

family affairs court, if the victim is the offender's family member

magistrates' court, if the victim is not the offender's family member

juvenile court, if the victim is a minor

## 1.4 What are potential causes of action?

The victim can begin criminal or civil proceedings depending on the issue. The main orders are:

protective order

threatening harassment restraining order

order for assuring quiet enjoyment at home in child support/spousal support claim

# 2. Introduction: framework guiding domestic violence law

## 2.1 Are there civil and criminal legal remedies for domestic violence victims?

Courts are authorized to issue immediate protection orders to ensure the safety and well-being of any family member who is threatened or views himself or herself as threatened by the person named in the order. Protection orders provide for a relatively fast remedy and do not require a prior complaint to be filed with the police. A protection order can be effectuated by the threatened person and by another person, it is temporary and for a limited time. The court may grant a protection order *ex parte*; where an *ex parte* order has been granted, a hearing in the presence of both parties will be conducted as soon as possible and no later than seven days from the order being granted.

The remedies most commonly petitioned for by battered women are: 1) restraining order; 2) temporary custody of minor children; and 3) court-mandated treatment against domestic violence for the violent man. The two most common remedies, which the courts grant in almost all cases of *ex parte* petitions, are: 1) restraining orders; and 2) prohibition against carrying firearms.

Under the [Prevention of Family Violence Law, 5751-1991](https://knesset.gov.il/review/data/eng/law/kns12_familyviolence_eng.pdf), a court may issue an order prohibiting a person from doing all or some of the following acts:

enter the dwelling where the family member resides or be found within a certain distance of such dwelling, notwithstanding that he has any right therein

harass a family member in any manner and at any place

act in any way which prevents or hinders the use of an asset lawfully in use by a family member, notwithstanding that he has any right to the asset

carry or possess a weapon, including a weapon given to him by the Israel Defense Forces or by any other State agency

A protection order can also include a requirement to post bail in compliance with good behavior (or any other directive the court wishes to impose) to guarantee the well-being and safety of the family member.

**Treatment**

Where a protection order has been granted, the court can (upon issuing the order or at a later date) order the person to whom the order applies to obtain treatment from a person determined by the court.

**Protection order timeline**

The court may remove the violent family member from the home for a period of up to three months and may extend this period, if the total period does not exceed six months. However, in special circumstances, the court may extend the validity of the order for a total period not exceeding one year.

**Breach of the protection order**

Where a complaint has been filed with the police regarding the breach of a protection order that includes a prohibition, a police officer may arrest the offender.

**Costs and damages**

Where the court has dismissed a claim to grant a protection order as vexatious, it may impose on the person who sought the protection order all or part of the following:

costs in favor of the state and the aggrieved party, at such rate as it sees fit

adequate damages to the party aggrieved by the filing of the petition

## 2.2 Is domestic violence identified in national law as a human right (noting that at a European level protection from domestic violence has not been explicitly identified as a human right but is indirectly captured by the other provisions)?

Article 2 of Israel's Basic Law: Human Dignity and Liberty states that there shall be no violation of the life, body or dignity of any person and Article 4 states that all persons are entitled to protection of their life, body and dignity.

## 2.3 Has your country signed and ratified the Council of Europe's Istanbul Convention (2011) preventing and combating violence against women and domestic violence (CETS No. 210)?

No.

## 2.4 If it has ratified the Istanbul Convention, how has this convention been implemented into national law?

N/A

## 2.5 If it has not ratified or signed the Istanbul Convention, is it envisaged that your country will do so?

N/A

## 2.6 If it has ratified the 1979 Convention, how has the recommendations part of General Comment No. 35 been implemented into national law?

N/A

## 2.7 If the 1979 Convention has not been ratified or signed, is it envisaged that your country will do so?

N/A

# 3. Similarities and differences in terminology

## 3.1 Domestic violence

Not defined. However, it is covered specifically in relation to sex offenses in Article 5 of Chapter 10 of the Penal Law, 5737-1977 ("**Penal Law**").

## 3.2 Stalking

Set out in Article 5(A)(3) of the [Prevention of Threatening Harassment Law, 5762-2001](https://drive.google.com/file/d/1fOFOXGDsJJyNYrAURdTdqRE8YoPk9w7m/view?usp=sharing), stalking is referred to as stalking the victim, ambushing them, tracing their movements or actions or harming their privacy in any other way.

## 3.3 Harassment

Set out in Article 2(A) and (B) of the [Prevention of Threatening Harassment Law, 5762-2001](https://drive.google.com/file/d/1fOFOXGDsJJyNYrAURdTdqRE8YoPk9w7m/view?usp=sharing):

Harassment is the harassment of another person by any means or the taking of threats against them, in circumstances that provide a reasonable basis to assume that the harassing or threatening person may return to harm the peace of life, privacy or liberty of the person or that they may harm their body.

Without derogating from the provisions of subsection (a), threatening harassment of a person may include, among others, one of the following:

in the pursuit of his movements or actions, or in violation of his privacy in any other manner

taking threats of harm to them or threatening themselves

contacting them orally, in writing or by any other means

damaging their property, reputation or freedom of movement

in the practice of guarding a condominium in violation of the provisions of the Restriction of Hostage Services Law, 5769-2008

Sexual harassment, as set out in the Prevention of Sexual Harassment Law, 5758-1998, is any one of the following acts:

extortion by threat, within the meaning thereof in Section 428 of the Penal Law, when the act that the person is required to perform is of a sexual nature

indecent acts, within their meaning in Sections 348 and 349 of the Penal Law

repeated propositions of a sexual nature, addressed to a person who has demonstrated to the harasser that they are not interested in the said propositions

repeated references addressed to a person and focused on his sexuality, when that person has demonstrated to the harasser that they are not interested in the said references

an insulting or debasing reference to a person in connection with their gender or sexuality, including their sexual preference

propositions or references as referred to in paragraphs (3) or (4), addressed to one of the persons enumerated in subparagraphs (a) to (c) under circumstances specified in those subparagraphs, even if the harassed person has not demonstrated to the harasser that they are not interested in the said propositions or references:

toward a minor or helpless person, by exploiting a disciplinary, educational or treatment relationship

toward a patient within the framework of psychological or medical treatment, by exploiting the patient's dependence on the person treating him

toward an employee within the framework of an employment relationship, and toward a person in service within the framework of such service, by exploitation of authority and discipline in labor relations or in the service

## 3.4 Victim

Not defined.

## 3.5 Abuser

"Offender" is defined in the [Prevention of Threatening Harassment Law, 5762-2001](https://drive.google.com/file/d/1fOFOXGDsJJyNYrAURdTdqRE8YoPk9w7m/view?usp=sharing) as a person who has taken threatening harassment or meets one of the conditions specified in Section 4 (b) (1) or (2).

## 3.6 Civil protection order

A protection order is defined in Section 2 of the Prevention of Domestic/Family Violence Law, 5751-1991 as a court order prohibiting a person from doing all or some of the following acts:

enter the dwelling where the family member resides or be found within a certain distance of such dwelling, notwithstanding that he has any right therein

harass a family member in any manner and at any place

act in any way which prevents or hinders the use of an asset lawfully in use by a family member, notwithstanding that they have any right to the asset

carry or possess a weapon, including a weapon given to him by the Israel Defense Forces or by any other State agency

## 3.7 Causes of action

Not defined.

## 3.8 Marital rape

Rape is defined in Article 5 (Sex Offences) of the Penal Law, Section 345:

If a person had intercourse with a woman —

without her freely given consent;

with the woman's consent, which was obtained by deceit in respect of the identity of the person or the nature of the act;

when the woman is a minor below age 14, even with her consent;

by exploiting the woman's state of unconsciousness or other condition that prevents her from giving her free consent;

by exploiting the fact that she is mentally ill or deficient, if — because of her illness or mental deficiency — her consent to intercourse did not constitute free consent.

then he committed rape […]

Marital rape was confirmed to be a crime of the same nature in a decision by the Supreme Court in 1980, citing law based on the Talmud.

## 3.9 Are there any other important domestic violence terms defined in relevant domestic violence statutes and codes?

**Sex offense**

This means an offense pursuant to Article 5 of Chapter 10 of the Penal Law. This section covers rape, forbidden intercourse by consent, sodomy, sexual relations between a provider of mental health treatment and a patient, indecent acts and sex offenses within the family and by persons responsible for vulnerable persons.

**Indecent act**

For the purposes of Article 348 (indecent act) of the Penal Law, it is defined as an act for sexual arousal, satisfaction or abasement.

**Helpless person**

For the purposes of Article 351 (sex offenses within the family and by persons responsible for helpless persons) of the Penal Law, it is defined as a person who because of his age, illness or physical or mental infirmity, mental deficiency or any other cause, cannot provide the needs of his livelihood, health or welfare.

# 4. Protection for domestic violence victims and relief granted

## 4.1 Civil protection orders

## 4.1.1 Are there civil protection orders available to victims of domestic abuse?

Yes.

## 4.1.2 Who can petition for civil protection orders?

A family member, as defined in the Prevention of Family Violence Law, 5751-1991, can petition for civil protection orders. See Section 3 for the definition, but this broadly includes spouse, parent or spouse of a parent, parent of a spouse or spouse of a parent, grandparents, offspring of a spouse, brother, sister, brother-in-law, sister-in-law, uncle, aunt, nephew, niece or a person responsible for a minor or incapacitated person.

## 4.1.3 Are there temporary custody of a child or child support orders?

Some literature suggests that a child protective order is available, but we cannot find the basis of this in law. Note that the Prevention of Family Violence Law does specifically address the inverse point, which is maintaining a connection between the aggressor and the minor.

## 4.1.4 Is there a provision to order the abuser to move out or stay away from places that the victims frequent?

From the Prevention of Family Violence Law, 5751-1991, Section 2(a):

The protection order can prohibit the person from doing any or all of the following:

enter the family dwelling or be within a certain distance of the family dwelling

harass a family member in any manner or at any place

prevent or hinder the use of an asset lawfully in use by a family member

carry or possess a weapon (including one provided by the Israel Defense Force or other state agency)

## 4.1.5 Are there any other types of emergency, preventive and civil protection orders?

Yes, threatening harassment restraining orders are available on the presentation of an application form to the court pursuant to the Prevention of Threatening Harassment Law, 5762-2001. Some useful information can be found [here](https://www.kolzchut.org.il/he/%D7%A6%D7%95_%D7%9C%D7%9E%D7%A0%D7%99%D7%A2%D7%AA_%D7%94%D7%98%D7%A8%D7%93%D7%94_%D7%9E%D7%90%D7%99%D7%99%D7%9E%D7%AA).

## 4.1.6 Can these orders be requested by direct or indirect victims or legal representatives in children's cases?

A family member can apply for a protective order, which includes a "person responsible for the sustenance, health, education or welfare of a minor or incapacitated person residing with the person responsible for him/her as stated."

## 4.1.7 Are there different types of civil protection orders, e.g., for a short- term period?

See Section 4.1.10.

## 4.1.8 Are ex parte orders permitted without the aggressor being present?

Yes.

## 4.1.9 Do emergency orders also extend protection for abuse and intimidation to family members of the victim?

Yes. One of the requirements of a protective order can be to prohibit a person from harassing a family member in any manner or at any place.

## 4.1.10 How long do the orders last?

If the order is granted *ex parte*, it will likely be for a short period (e.g., days). By law, a protection order may not exceed three months, but can be extended for a total period not exceeding six months.

Note that the court is able, for "special grounds" that it must specify in a decision, to extend the validity of the order for a total period not exceeding 12 months.

## 4.1.11 Please provide any data or hyperlinks to government or NGO websites that include information on how often civil protection orders are issued, and any relevant demographics information, e.g., police reports, convictions, etc.

Ministry of Justice, [Legal Aid website "Violence in The Family"](https://www.justice.gov.il/En/Units/LegalAid/ResponsibilityAreas/SubjectResponsibility/Pages/Violence.aspx)

2016 academic paper ["Protection Orders for Battered Women in Israel"](https://www.mdpi.com/2075-471X/5/3/32/htm) by Dalit Yassour-Borochowitz, Department of Human Services, Emek Isral College, Israel: provides an overview of the analysis of 260 protection orders in the instance of violence by men against their partners and contains some useful information on when protection orders are granted, etc.

## 4.2 Steps for receiving a protective order

## 4.2.1 What documentation is needed to obtain a civil protection order?

File a petition. There is no clear information on what evidence or documentation is required.

## 4.2.2 Does the victim need to attend a hearing?

Yes. A protection order can be granted *ex parte*, but if that happens, the order will likely be valid for a short period and a hearing in the presence of both parties should be conducted as soon as possible and no later than seven days from the granting of the order.

## 4.2.3 Can you request remedies?

It is unclear whether direct remedies for the victim are available.

## 4.2.4 Are there time limits?

Yes. If the order is granted *ex parte*, it will likely be for a short period (e.g., days). By law, a protection order may not exceed three months, but can be extended for a total period not exceeding six months.

Note that the court is able, for "special grounds" that it must specify in a decision, to extend the validity of the order for a total period not exceeding 12 months.

## 4.2.5 Are there different rules in emergencies?

Unable to find any different rules for emergencies.

## 4.3 Judicial discretion

## 4.3.1 What discretion does a judge have in granting a civil protection order or other protective orders?

There appears to be some discretion on the validity period for the order. Note that a court is able, for "special grounds" that it must specify in a decision, to extend the validity of the order for a total period not exceeding 12 months.

## 4.3.2 Are there age limits on who can obtain orders?

This does not appear to be addressed in the law.

## 4.4 Restitution and remedies available to victims

## 4.4.1 Can victims obtain reimbursement for costs and restitution paid?

This does not appear to be addressed in the law. Note that this website does have more information about support/assistance (e.g., [shelter](https://www.kolzchut.org.il/he/%D7%9E%D7%93%D7%A8%D7%99%D7%9A_%D7%9C%D7%A0%D7%A4%D7%92%D7%A2%D7%95%D7%AA_%D7%90%D7%9C%D7%99%D7%9E%D7%95%D7%AA_%D7%91%D7%9E%D7%A9%D7%A4%D7%97%D7%94)).

## 4.4.2 Can they recover wages and profits lost?

This does not appear to be addressed in the law.

## 4.4.3 Is a separate civil process required?

This does not appear to be addressed in the law.

# 5. Prosecutorial considerations

## 5.1 Police procedures

## 5.1.1 When do the police get involved in domestic disputes or legal actions?

The Prevention of Family Violence Law, 1991, was enacted based on the civil principle of protection orders. The law stipulates that the courts are authorized to issue immediate protection orders to ensure the safety and well-being of any family member who is threatened or views himself or herself as threatened by the person named in the order. This procedure is unique in that it is relatively fast and can be conducted *ex parte*, and it does not stipulate that a prior complaint has to be filed with the police. A protection order can be effectuated by the threatened person and by another person, it is temporary and for a limited time.[3]

Please note that due to the differences between rabbinical (Orthodox) and civil courts, compromises between the two have allowed ultra-Orthodox religious law to govern family law.[4]

In addition, and with very few exceptions, Israeli civil law does not permit marriages between Jews and non-Jews within the state of Israel. The Israeli government will recognize marriages between Israeli Jewish citizens and non-Jews that take place outside of Israel. Israeli law does permit marriages in Israel between converts.[5]

For divorce adjudicated in religious courts, the husband, in Jewish law, has the exclusive power to grant a get (religious divorce under Jewish law). The rabbinical court only supervises the divorce proceedings. This balance of power in favor of the husband often leaves Jewish women in the Orthodox community and in Israel at the mercy of their abusive husbands, who refuse to grant them a get. Rarely does the rabbi advise the victim to leave her husband or instruct the abuser that he must grant his wife a divorce. Without a divorce, the woman cannot remarry and any children that she would have would be considered mamzerim (illegitimate). A woman who leaves her husband without a divorce is also likely to be considered a shonde (source of shame) and be ostracized by her own community and possibly her own family. As a result, many battered Orthodox women see themselves as having no choice other than to remain with their abusive husbands. The rabbinical courts in Israel wield tremendous power in matrimonial affairs because there is no civil divorce in Israel. Although the courts can order men to grant their wives divorces and enforce penalties if they do not, very few men, including batterers, are ever sanctioned.[6]

In recent years, many rabbinical courts consider it a moral obligation to help an abused wife get away from her husband and receive a get. However, the husband is still the one who must begin the get proceedings.[7]

## 5.1.2 What circumstances effect law firm involvement?

Traditionally, only a husband can start the get process.[8] Because of their deep-seated power, rabbinical courts have complete control of Israeli family law,[9] which seems to infer that civil action is not possible. However, legal aid may be available for women in some cases.[10]

## 5.2 Standard of proof

## 5.2.1 Is proof required by any legal means?

The Prevention of Family Violence Law, 1991, which "was enacted, based on the civil principle of protection orders," protects victims of domestic violence.

The law stipulates that the courts are authorized to issue immediate protection orders to ensure the safety and well-being of any family member who is threatened or views himself or herself as threatened. Therefore, for a protection order, no proof other than the victim's testimony is necessary.

## 5.2.2 Are there any requirements regarding evidence and documents?

For protection orders, the victim's testimony is sufficient.

## 5.2.3 Is proof "beyond a reasonable doubt" required?

N/A

## 5.2.4 Is the standard of proof different for ex parte orders?

N/A

## 5.3 Affirmative defenses

## 5.3.1 Are affirmative defenses available to the accused?

In 2019, the Israeli Penal Code was amended in a way that establishes a new offense of "killing in circumstances of reduced liability,"[11] which allows the court to alleviate the criminal liability of victims of abuse who take the life of the abuser. According to [this](https://www.gov.il/he/departments/news/dead_offenses) statement from the official Ministry of Justice website, the amendment embodies a shift from a "reduced punishment" model to a model of "reduced liability," which allows not only mitigation of punishment but also relief in the labeling that accompanies a conviction. For example, a battered woman who, due to severe mental distress, killed her abusive spouse will be convicted not of murder but of the offense of killing in circumstances of reduced liability.

Theoretically, there are a number of general defenses listed in the Israeli Penal Code, such as "self-defense" and "necessity defense."

## 5.3.2 Is willful intent required?

According to the new offense of "killing in circumstances of reduced liability":

[…] anyone who **intentionally or indifferently** causes a person's death by an act that was committed when the defendant was in a state of severe mental distress, due to severe and ongoing abuse of him/her or his/her family member, by the person who's death is caused by the defendant, is liable to fifteen years imprisonment.

## 5.3.3 Are false accusations punishable for the victim?

Yes, there are several sections in the Israeli Penal Code that state that a false complaint is a criminal offense. For example, according to Section 243, whoever submits to a police officer or to a person authorized to file a criminal claim, information of an offense when he/she knows that the information is false, is liable to imprisonment for three years, and if the offense is a crime, to five years' imprisonment; and it does not matter whether a criminal lawsuit was filed following the information or not.

There are also other sections in the Penal Code as well as in other laws (such as the Prevention of Family Violence Law, 1991) that authorize the court to order the complainant to pay legal costs in favor of the accused party or in favor of the state (and, in some cases, compensation for the accused party) if it turns out that the complaint is a "spiteful complaint" or filed without foundation.

## 5.3.4 How is consent discussed in the law?

The age of consent in Israel is 16 years old. The age of consent is the minimum age at which an individual is considered legally old enough to consent to participate in sexual activity. In Israel, individuals aged 15 or younger are not legally able to consent to sexual activity, and such activity may result in prosecution for statutory rape or the equivalent local law.[12]

In Israel, statutory rape law is violated when an individual has consensual sexual contact with a person under 26. If the age difference between the partners is less than 3 years, the sexual contact was done outside of "regular friendly relations," and without any abuse of power. However, males over 18 are prohibited from having sexual relations with a female under 18.[13]

Generally, rape, under Section 345 of the Penal Law, is punishable by 16 years of imprisonment. Rape consists of intercourse with a woman in any of the following circumstances:

without her consent

with consent, which was obtained by deceit in respect of the identity of the person or the nature of the act

with a minor who is less than 14 years old, regardless of whether the victim consented

by exploiting the woman's state of unconsciousness or other condition that prevents her from giving her free consent

by exploiting the fact that she is mentally ill or deficient, if — due to her illness or mental deficiency — her consent was not given freely

However, the maximum penalty for rape is increased to 20 years, if committed in the following cases:

if the victim is a minor under the age of 16, under the circumstances set forth in items (1), (2) (4) and (5) above

if the act was committed under threat of a firearm or other weapon

if it was committed by causing physical or emotional harm, or pregnancy

if abuse was committed before, during or after the act

if it was committed in the presence of one or more persons, who joined together in order for any of them to commit the act[14]

## 5.3.5 Is self-defense or insanity a defense?

**Self-defense**

No person will bear criminal responsibility for an act that was immediately necessary in order to repel an unlawful attack, which posed real danger to his own or another person's life, freedom, bodily welfare or property; however, a person is not acting in self-defense when his own wrongful conduct caused the attack, and they foresaw the possibility of such a development.

**Necessity**

No person will bear criminal responsibility for an act that was immediately necessary in order to save his own or another person's life, freedom, bodily welfare or property from a real danger of severe injury, due to the conditions prevalent when the act was committed, there being no alternative but to commit the act.

**Lack of control**

No person will bear criminal responsibility for an act committed by him when he was not free to choose between its commission or abstention from it, because he did not have control of his bodily movements in respect of that act; for an act committed under physical coercion that the perpetrator could not overcome; in a reflexive or convulsive reaction; while he was asleep; or in a condition of automatism or under hypnosis.

**Mental incompetence**

No person will bear criminal responsibility for an act committed by him, if — at the time the act was committed, because of a disease that adversely affected his spirit or because of a mental impediment — he lacked any real ability (1) to understand what he did or the wrongful nature of his act; or (2) to abstain from committing the act.[15]

## 5.4 Witness status

## 5.4.1 What is a witness's duty to testify honestly and completely?

According to the Rights of Victims of Crime Law, 2001, witnesses must answer truthfully. This law also states that victims do not need to testify as witnesses, but if they choose to do so, they must testify truthfully.[16]

The Hague Conference on Private International Law, in response to the question: "Is an oath generally administered to a witness?", states for Israel:

The witness is notified of his or her duty to testify truthfully and is informed that there are penalties under law for giving a false testimony. The witness must then confirm that he or she understands this and must undertake to testify truthfully. In addition, the court may require an oath or affirmation if there are grounds to believe that doing so would assist in uncovering the truth.[17]

## 5.4.2 Who may abstain from testifying in certain situations?

N/A

## 5.4.3 What potential "excuses" can a witness raise to refuse to testify in a domestic violence action?

N/A

## 5.4.4 What is the impact of domestic violence on witnesses who are children?

The [Evidence (Protection of Children) (Amendment No. 17) Law, 5777-2017](http://fs.knesset.gov.il/20/law/20_lsr_390362.pdf), sets out a special procedure for receiving testimony from children under 14 for sexual offenses and domestic violence offenses, these include:

limitations to testimony

requirements for certain party's presences in the courtroom during testimony[18]

## 5.4.5 Can children be called upon to testify?

Children may testify:

[…] dependent on the condition that the defendant will not be present in the courtroom; the testimony will be given in the presence of the defense attorney via closed-circuit television or other means.[19]

The child's testimony is limited to the day on which it commences.

## 5.4.6 What is the effect of a child victim on the charges against the offender?

N/A

## 5.5 Penalties and sentencing; penalty enhancements

## 5.5.1 What are the penalties and sentencing laws for first-time domestic violence offenses?

The remedies most commonly petitioned for by battered women are: 1) a restraining order; 2) temporary custody of minor children; 3) and court-mandated treatment against domestic violence for the violent man. The two most common remedies, which the courts grant in almost all cases of *ex parte* petitions, are: 1) restraining orders; and 2) prohibition against carrying firearms.[20]

## 5.5.2 Are there criminal penalties?

Rape, including spousal rape, is a felony, punishable by 16 years in prison.[21] We were unable to find any other specific criminal penalties or sentencing laws.

## 5.5.3 What is the result of a violation of an existing order for protection?

Where a complaint has been filed with the police in respect of a breach of a protection order that includes a prohibition pursuant to Section 2 (a) (1), a police officer may arrest the offender.[22]

## 5.5.4 What fines and other penalties are imposed besides incarceration and liberty restriction?

According to the Prevention of Family Violence Law, 5751-1991, an individual may apply for, and obtain, a court protection order against any family member who behaves violently toward other family members. Violence can be physical, emotional, financial or of a different kind. The protection order may be given in the presence of the applicant alone, but a hearing with both parties present must take place within seven days of issuing the protection order. The protection order can, for example, prohibit the violent person from entering the family's residence, harassing any family member, etc. The website of the Ministry of Justice indicates that, under the Prevention of Family Violence Law, 5751-1991, the court may remove the violent family member from the home for a period of up to three months and may extend this period, if the total period does not exceed six months. However, in special circumstances, the "judge has power to extend the [protection order] for a period of not exceeding one year from the date of removal."[23]

## 5.6 Post-release restrictions

## 5.6.1 Does the law notify the victim of the offender's release from custody?

N/A

# 6. Special issues

## 6.1 Battered woman syndrome

## 6.1.1 Can lawyers present evidence of battered woman syndrome or other domestic abuse as an affirmative defense to crimes that the battered woman has committed? (Note: Battered Woman Syndrome is accepted by courts in certain jurisdictions to show that battered women can use force to defend themselves and sometimes kill their abusers due to abusive and life-threatening situations.)

In Article 2, Chapter 5 of the Penal Law, the defenses of lack of control (34G), self-defense (34J) or necessity (34K) could be deemed to cover battered woman syndrome in some capacity. For instance:

Lack of control (34G) — if a domestic violence victim was deemed to not be in control of their own actions due to the severity of the violence they were suffering, although this defense is more in reference to a reflexive or convulsive reaction or a condition of automatism.

Self-defense (34J) — if the victim acted in self-defense.

Necessity (34K) — if the victim's acts were deemed necessary to save their life, freedom, bodily welfare or property from real danger or severe injury.

If a battered woman were to kill her partner, the courts may give her a reduced penalty according to Section 300A, Article 1, Chapter 10 of the Penal Law, if the court deemed that the above defenses apply (Section 300A(b)) or that she was in a state of severe mental distress caused by the abuse she was suffering (Section 300A(c)).

In 2019, the Israeli Penal Code was amended in a way that establishes a new offense of "killing in circumstances of reduced liability," which allows the court to alleviate the criminal liability of victims of abuse who take the life of the abuser. According to [this](https://www.gov.il/he/departments/news/dead_offenses) statement from the official Ministry of Justice website, the amendment embodies a shift from a "reduced punishment" model to a model of "reduced liability," which allows not only mitigation of punishment but also relief in the labeling that accompanies a conviction. For example, a battered woman who, due to severe mental distress, killed her abusive spouse will be convicted not of murder but of the offense of killing in circumstances of reduced liability.

## 6.2 Domestic violence in the workplace

## 6.2.1 Can courts issue orders to protect employees suffering from domestic violence?

According to the [Prevention of Family Violence Law, 5751-1991](https://www.knesset.gov.il/review/data/eng/law/kns12_familyviolence_eng.pdf), Section 2. Protection order (Amendment: 5756, 5758), a court may issue an order prohibiting a person from harassing a family member in any manner and at any place. Therefore, the court may issue an order to protect a victim of domestic violence at her workplace. Any person who needs a protection order to prevent domestic violence can use the service [here](https://www.kolzchut.org.il/he/%D7%A6%D7%95_%D7%94%D7%92%D7%A0%D7%94_%D7%9C%D7%9E%D7%A0%D7%99%D7%A2%D7%AA_%D7%90%D7%9C%D7%99%D7%9E%D7%95%D7%AA_%D7%91%D7%9E%D7%A9%D7%A4%D7%97%D7%94) to apply to the court or tribunal in order to obtain a protection order.

## 6.2.2 Can departure be deemed "for good cause" if related to domestic violence?

According to Section 14of the [Women's Labor Law, 1954](https://www.nevo.co.il/law_html/law01/p176_001.htm), there are restrictions on dismissing a woman who is staying in a shelter for battered women.

In addition, an employee may be absent from work for a limited time if she is staying in a shelter for battered women (see [here](https://www.kolzchut.org.il/he/%D7%94%D7%99%D7%A2%D7%93%D7%A8%D7%95%D7%AA_%D7%9E%D7%94%D7%A2%D7%91%D7%95%D7%93%D7%94_%D7%A9%D7%9C_%D7%A2%D7%95%D7%91%D7%93%D7%AA_%D7%94%D7%A9%D7%95%D7%94%D7%94_%D7%91%D7%9E%D7%A7%D7%9C%D7%98_%D7%9C%D7%A0%D7%A9%D7%99%D7%9D_%D7%A0%D7%A4%D7%92%D7%A2%D7%95%D7%AA_%D7%90%D7%9C%D7%99%D7%9E%D7%95%D7%AA_(%D7%A0%D7%A9%D7%99%D7%9D_%D7%9E%D7%95%D7%9B%D7%95%D7%AA))). In order to be eligible for this entitlement, the employee must have been employed for six consecutive months and is entitled to be absent for up to six months out of the 12 months commencing on the first day of her time in the shelter. During this time, her employer will not be able to terminate her employment. This period of absence will be considered as unpaid leave, therefore, the employee is not entitled to wages but might be entitled for other financial assistance (not from the employer, see below).

According to the [Dismissal Compensation Law, 1963](https://www.nevo.co.il/law_html/law01/p189_001.htm#Seif7), if an employee resigned due to being in a shelter for battered women, which was approved by the Department of Social Services or the Ministry of Labor and Welfare, for the purposes of this law, the resignation should be considered as dismissal (provided that shortly before her resignation she was in the shelter for at least 60 days and subject to other conditions regarding the duration of her employment as mentioned in the law). This means that the employee will be entitled to dismissal compensation as defined in the law (see [here](https://www.kolzchut.org.il/he/%D7%94%D7%AA%D7%A4%D7%98%D7%A8%D7%95%D7%AA_%D7%A2%D7%A7%D7%91_%D7%A9%D7%94%D7%99%D7%99%D7%94_%D7%91%D7%9E%D7%A7%D7%9C%D7%98_%D7%9C%D7%A0%D7%A9%D7%99%D7%9D_%D7%A0%D7%A4%D7%92%D7%A2%D7%95%D7%AA_%D7%90%D7%9C%D7%99%D7%9E%D7%95%D7%AA_(%D7%A0%D7%A9%D7%99%D7%9D_%D7%9E%D7%95%D7%9B%D7%95%D7%AA))). There are certain eligibility criteria for this, including that she was employed by the same employer for a year, she resigned due to being in a shelter for battered women and she stayed in the shelter for at least 60 days.

According to the [Law for the Encouragement of the Integration and Promotion of Women at Work and of the Adjustment of Workplaces for Women, 2008](https://www.nevo.co.il/law_html/law01/999_945.htm), a person who employed an employee who stayed in a shelter for battered women 150 days after the end of her absence, as stated in Section 9(e)(1) of the Women's Labor Law, 1954, will be entitled at the end of the woman's employment period to a one-time grant in the amount of ILS 5,000 (see [here](https://www.kolzchut.org.il/he/%D7%9E%D7%A2%D7%A0%D7%A7_%D7%9C%D7%9E%D7%A2%D7%A1%D7%99%D7%A7_%D7%94%D7%9E%D7%A2%D7%A1%D7%99%D7%A7_%D7%A2%D7%95%D7%91%D7%93%D7%AA_%D7%A9%D7%A9%D7%94%D7%AA%D7%94_%D7%91%D7%9E%D7%A7%D7%9C%D7%98_%D7%9C%D7%A0%D7%A9%D7%99%D7%9D_%D7%A0%D7%A4%D7%92%D7%A2%D7%95%D7%AA_%D7%90%D7%9C%D7%99%D7%9E%D7%95%D7%AA)). This entitlement commenced in 2021. An employer is also not permitted to dismiss an employee who is staying in a shelter for battered women and for 150 days from the date of her return to work. Victims of domestic violence may also apply for [rent assistance](https://www.kolzchut.org.il/he/%D7%A1%D7%99%D7%95%D7%A2_%D7%91%D7%A9%D7%9B%D7%A8_%D7%93%D7%99%D7%A8%D7%94_%D7%9C%D7%A0%D7%A9%D7%99%D7%9D_%D7%A0%D7%A4%D7%92%D7%A2%D7%95%D7%AA_%D7%90%D7%9C%D7%99%D7%9E%D7%95%D7%AA_(%D7%A0%D7%A9%D7%99%D7%9D_%D7%9E%D7%95%D7%9B%D7%95%D7%AA)) and [immediate financial assistance](https://www.kolzchut.org.il/he/%D7%A1%D7%99%D7%95%D7%A2_%D7%9B%D7%A1%D7%A4%D7%99_%D7%9E%D7%99%D7%99%D7%93%D7%99_%D7%9C%D7%A0%D7%A4%D7%92%D7%A2%D7%95%D7%AA_%D7%95%D7%9C%D7%A0%D7%A4%D7%92%D7%A2%D7%99_%D7%90%D7%9C%D7%99%D7%9E%D7%95%D7%AA_%D7%91%D7%9E%D7%A9%D7%A4%D7%97%D7%94_%D7%A9%D7%94%D7%AA%D7%A0%D7%AA%D7%A7%D7%95_%D7%9E%D7%91%D7%9F_%D7%94%D7%96%D7%95%D7%92_%D7%94%D7%90%D7%9C%D7%99%D7%9D).

## 6.2.3 Can family members of domestic violence victims take reasonable leave to help the victim seek treatment or obtain help and services?

N/A

## 6.3 Immigration

## 6.3.1 Does the law include provisions that are intended to prevent abusers who are citizens or permanent residents from using immigration laws to perpetrate domestic violence against their spouse?

There is a [Process for terminating a procedure for regulating the status of Israeli spouses as a result of violence by the Israeli spouse](https://www.gov.il/BlobFolder/policy/procudure_stop_process_of_foreign_permit_breakup_resulting_of_violence_from_israeli_partner/he/5.2.0019.pdf).

## 6.3.2 If battered immigrants cooperate with law enforcement in domestic violence, can they obtain immigration remedies?

Spouses of Israeli citizens who are victims of domestic violence can apply for status in Israel [here](https://www.gov.il/en/service/regulating_the_status_of_an_alien_as_a_result_of_the_violence_of_israeli_spouse). This status can be sought by victims of domestic violence in a number of circumstances, such as if there are justified and investigated complaints to the police against the perpetrator of domestic violence, the spouse has received a protection order or if the spouse has spent a month or more in a shelter for battered women.

## 6.3.3 Does domestic violence law discuss asylum accessibility?

According to page 13 of [CEDAW/C/ISR/6](https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/ISR/CEDAW_C_ISR_6_5955_E.pdf) report, in February 2017 the regulation of the government of Israel on processing asylum requests (PIBA Regulation No.5.2.0012) was updated. A section titled "Gender Sensitivity" was added to the process of refugee status determination (RSD) in order to highlight gender sensitivities, acknowledge that gender is important when processing asylum requests and ensure that RSD interviews of victims must be treated with respect and sensitivity.

RSD unit employees must have training on gender-based issues and traumatic experiences. Interviewees may request that the interviewer is of the same gender, all interviews must be held individually and the interviewee must be given the opportunity to share their experience of gender-based violence. Caution should be taken to ensure that the interviewee does not experience a repetition of their trauma and if they have difficulty completing their interview, they should have the opportunity to complete it another time.

In October 2013, the PIBA published procedure No. 5.2.0019 regarding the process of acquiring civil status for immigrants who are victims of domestic violence inflicted by their Israeli spouse, which has lead to the termination of the relationship. This procedure can allow the victim to separate from their partner and acquire civil status in Israel.

## 6.4 Armed forces

## 6.4.1 Can a victim seek a military protective order if the abuser is in active military?

The Prevention of Family Violence Law, 5751-1991 outlines a number of acts for which the court may issue an order to prohibit a person from committing these acts. Within this, it is stated that the court has the power to prohibit an individual from carrying or possessing a weapon, including a weapon given to them by the Israel Defense Forces or by any other state agency.

Where a protection order has been issued, which includes a prohibition pursuant to this, notice thereof must be given by the court to the licensing officer as defined in the Firearms Law, 5709-1949, and if the person bound by the order is a member of the Reserves of the Israel Defense Forces, notice thereof must be given to the Israel Defense Forces.

Where a protection order has been issued, which includes a prohibition pursuant to this, and the person bound by the order is a member of the security service, the court may prescribe conditions in the order according to which that person may carry or possess a weapon in order to carry out his duties. Notice of such an order must be given by the court to the relevant security service, and it should make the necessary arrangements to ensure compliance with the order. For the purposes of this section, "member of the service" is a member of the Israel Police Force, the Prison Service or General Security Service or a soldier as defined in the Articles of War Law, 5716-1955.

## 6.5 Child custody and child/spousal support

## 6.5.1 Do judges follow special rules to determine custody or visitation of children in domestic violence cases?

The Prevention of Family Violence Law, 5751-1991 states that where a protection order has been issued for the protection of a minor, notice thereof must be given by the court to the welfare officer within the meaning of the Youth (Care and Supervision) Law, 5720-1960.

Where a protection order has been issued for the protection of a minor, in respect of the person responsible for the minor, the court must order the welfare officer to file a report with the court. This report must be filed within 30 days and the welfare officer must state his position regarding, among other things, the existence of the possibility of maintaining a connection between the minor and the person responsible for the minor. If it is the opinion of the court, based on the report, that maintaining the connection between the person responsible for the minor, in respect of whom the protection order was issued, falls in line with the good of the minor, it may grant orders in the matter.

Where a protection order has been issued for the protection of a minor, in respect of the person responsible for the minor, and the purpose of the order is not to protect the minor, the court may order maintaining the connection between the person and the minor, but only where it is convinced, on the basis of the produced report, that there will not be harm to the minor.

Note, "responsible for a minor" means a parent, step-parent, guardian or one who has the care and custody of the minor.

## 6.5.2 Can the judge consider the testimonies of the other spouse and the children when determining custody?

Children can give evidence and in civil proceedings at the family court. The judge can see them privately in chambers. As children in a family dispute are prone to incitement or influence from the other parent, the weight attributed to their testimony will be less than that of an independent witness. Furthermore, recordings of phone conversations and proper transcripts of these are also acceptable as evidence. However, it is only in exceptional circumstances that the court will allow minor children to give evidence against one parent, because of the implications that this would be likely to have on their relationship with the parent against whom they give evidence.

## 6.6 Housing rights of domestic violence victims

## 6.6.1 Does the law include any barriers to prevent landlords from forcing a tenant to move out because they are victims of domestic violence?

This does not appear to be addressed in the law.

## 6.6.2 Does the law allow a tenant to terminate his/her lease early due to domestic violence?

This does not appear to be addressed in the law.

## 6.6.3 Can an order exclude the abuser from the residence?

The Prevention of Family Violence Law, 5751-1991 outlines that a court may issue a protection order prohibiting a person from doing all or some of the following acts, or may attach conditions thereto:

enter the dwelling where the family member resides or be found within a certain distance of such dwelling, notwithstanding that he has any right therein

harass a family member in any manner and at any place

act in any way which prevents or hinders the use of an asset lawfully in use by a family member, notwithstanding that he has any right to the asset

carry or possess a weapon, including a weapon given to him by the Israel Defense Forces or by any other State agency

Based on this, the abuser should not be able to enter the residence where the abused resides, if a protection order is in place. The court may grant a protection order against a person if it sees that one of the following has occurred:

Shortly before the petition was filed, the person acted violently against a family member, committed a sexual offense against him or unlawfully detained him.

His behavior constitutes a reasonable basis for assuming that he poses a substantial physical threat to a family member he may commit a sexual offense against him.

Where he has committed continuous mental abuse or behaved in a manner that does not permit a family member to run his life is a reasonable and proper manner.

## 6.6.4 Can abusers be forbidden by court orders to alienate or mortgage the property in his/her name if it is the family domicile?

This does not appear to be addressed in the law.

# 7. Endnotes

[1]    <https://www.justice.gov.il/En/Units/LegalAid/ResponsibilityAreas/SubjectResponsibility/Pages/Violence.aspx>

[2]    <https://www.refworld.org/docid/5152bc282.html>

[3]    <https://www.mdpi.com/2075-471X/5/3/32>

[4]    <https://il.usembassy.gov/u-s-citizen-services/local-resources-of-u-s-citizens/marriage/>

[5]    <https://il.usembassy.gov/u-s-citizen-services/local-resources-of-u-s-citizens/marriage/>

[6]    <http://criminal-justice.iresearchnet.com/crime/domestic-violence/jewish-community/>

[7]    <https://www.womenslaw.org/laws/religious/abuse-jewish-community/all>

[8]    <https://www.womenslaw.org/laws/religious/abuse-jewish-community/all>

[9]    <https://www.pugetsound.edu/files/resources/kaye-brea--proofread-copy.pdf>

[10]    <https://www.gov.il/en/service/legal_aid_application>

[11]    <https://www.nevo.co.il/law_html/law01/073_002.htm#Seif599>

[12]    <https://www.ageofconsent.net/world/israel>

[13]    <https://www.ageofconsent.net/world/israel>

[14]    [https://www.gov.il/BlobFolder/dynamiccollectorresultitem/](https://www.gov.il/BlobFolder/dynamiccollectorresultitem/the-rights-of-child-sale-prostitution-pornography/he/IMPLEMENTATION%20OF%20THE%20OPTIONAL%20PROTOCOL%20TO%20THE%20CONVENTION%20ON%20THE%20RIGHTS%20OF%20THE%20CHILD%20ON%20THE%20SALE%20OF%20CHILDREN,%20CHILD%20PROSTITUTION%20AND%20CHILD%20PORNOGRAPHY.pdf)

[15]    <https://www.icj.org/wp-content/uploads/2013/05/Israel-Penal-Law-5737-1977-eng.pdf>

[16]    <https://www.gov.il/en/departments/guides/guide_crime_victims?chapterIndex=5>

[17]    <https://www.hcch.net/en/states/authorities/details3/?aid=502>

[18]    [Israel: Protection of Children in Criminal Investigations and Trials | Global Legal Monitor](https://www.loc.gov/law/foreign-news/article/israel-protection-of-children-in-criminal-investigations-and-trials/)

[19]    [Israel: Protection of Children in Criminal Investigations and Trials | Global Legal Monitor](https://www.loc.gov/law/foreign-news/article/israel-protection-of-children-in-criminal-investigations-and-trials/)

[20]    Protection Orders for Battered Women in Israel; <https://www.mdpi.com/2075-471X/5/3/32>

[21]    <https://2009-2017.state.gov/j/drl/rls/hrrpt/2010/nea/154463.htm>

[22]    <https://knesset.gov.il/review/data/eng/law/kns12_familyviolence_eng.pdf>

[23]    <https://www.refworld.org/docid/5152bc282.html>

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