



» SYRIA

Situation report on Violence against Women / April 2017

1. Legislative framework

The Syrian Constitution (2012) did not provide for any specific article prohibiting discrimination against women, thus further undermining women's human rights, especially in light of the armed conflict in the past six years. The exclusion of women's human rights issues from all constitutional reforms, as well as from all the laws that were enacted over the past six years, has further enshrined gender-based discrimination and violence against women, in both theory and practice, in social culture which affect women's condition throughout their lives, leading thus to the exacerbation of such effects during armed conflict.

Neither did the new Constitution guarantee the right to gender equality, as well as the prohibition and criminalization of discrimination and violence against women. On the contrary, and for the first time since the independence, the Constitution included a reference to religious communities to the detriment of women's rights, in article 3(4), stating that «the personal status of religious communities shall be protected and respected.» The same article provides that the religion of the President of the Republic is Islam and that Islamic jurisprudence shall be a major source of legislation; this means the «constitutionalization» of discrimination against women as reflected in the six personal status laws of the various religious communities, as well as in the Nationality Law, the Criminal Code and some other laws and regulations. Discriminatory effects of these laws are reflected in civil laws. This confirms the continued legal void in legal protection for women. Thus, and by giving up its responsibilities to regulate and safeguard the rights of all family members, especially women, the Government poses a serious threat that contradicts the State's assertions of its alleged secularity.

Furthermore, the Constitution did not include any explicit article giving precedence to international conventions over domestic laws, including the Constitution. This deprives women of appropriate legal opportunities to amend discriminatory laws based on the provisions of these conventions.

The continued application of laws that unacceptably discriminate against women constitutes violence and generates and justifies violence against them. The Criminal Code still contains articles that legitimize the murder of women in cases of "honor killings" (articles 548 and 192) and if committed "in rage" (article 242).

Article 548, related to so-called honor killings or crimes, was not abolished; only the exculpatory excuse was abolished whereas the mitigating excuse was retained to benefit those who kill women "out of honor." Despite the issuance of Decree (1) of 2011 amending several articles of the Criminal Code, including the punishment of the rapist who

marries the victim, such amendments only abolished the exculpating excuse and retained the mitigating excuse. In fact, the amended article provided for a two-year sentence if the rapist marries the victim and 5-year sentence if he divorces her. This amendment did not protect women, the victims, from rape marriage which constitutes a blatant violation of their humanity and feelings. This article encourages the raped girl's parents to force her into marrying her rapist and denies her the freedom to choose her husband under the pretext of preserving her honor.

Articles on adultery still discriminate between women and men. Women's sentence is twice the sentence of men. Adultery committed by the husband is permissible if committed outside the marital home and is only sentenced if committed inside the house, whereas women are punished regardless of the place where adultery is committed. Discrimination in the means of proof between men and women also remains in favor of men.

Although there are certain articles in the Criminal Code that criminalize sexual harassment, especially against children, harassed women rarely seek justice through the legal system; this is due to a burdensome legacy and fear of shame and stigma which the victim and her family may endure because of the prevailing patriarchal male culture which insinuates that the victim should have done something that encouraged the aggressor. In addition to the above, there are no safe, confidential and appropriate complaint mechanisms for the victims to file their complaints through government agencies, particularly at hospitals, police departments and the public prosecution.

As for marital rape, it is completely ignored; there isn't any attempt to integrate it among rape crimes. There is rather an article legitimizing such rape in the Criminal Code. The incidence of marital rape is on the rise since the onset of the armed conflict among the displaced and refugee communities.

Regarding delay in issuing the law to protect women from violence and using the "crisis" as an excuse to justify this failure as indicated in the government's response¹, the draft law has been submitted since seven years and has not yet been approved.

2. Political framework

Syria has acceded to the following international and regional human rights treaties:

- [International Covenant on Civil and Political Rights](#)
- [International Covenant on Economic, Social and Cultural Rights](#)
- [International Convention on the Elimination of All Forms of Racial Discrimination](#)
- [Convention on the Rights of the Child](#)
- [Convention on the Elimination of All Forms of Discrimination against Women](#)
- [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)
- [Arab Charter on Human Rights](#)

The situation of Syrian women during the conflict

Syria has acceded to a number of international treaties which guarantee a range of civil, political, social, cultural and economic rights to all persons of concern. Syria has also acceded to the Arab Charter on Human Rights, a regional instrument adopted by the League of Arab States in 2004. Although Syria has been suspended from the Arab League since November 2011, it is still bound by the Charter. International human rights law applies at all times, whether in peace or war, but the states may take certain measures, in the event of an emergency situation such as an armed conflict, that do not comply with the full implementation of a particular treaty.

The treaties regulate such derogations (article 4 of the International Covenant on Civil and Political Rights and article 4 of the Arab Charter on Human Rights). Even when the State does not comply with the implementation of a treaty, international human rights law provides for certain specific protection clauses, such as the prohibition of torture and inhuman or degrading treatment or punishment². Furthermore, the United Nations Human Rights Committee³ clearly states that "States parties may in no circumstances invoke article 4 of the Covenant as justification for acting in violation of humanitarian law or peremptory norms of international law, for instance by taking hostages, by imposing

1 Syrian Government's report submitted to the Committee on the Elimination of Discrimination against Women (CEDAW) 2012

2 See Article 4(2) of the International Covenant on Civil and Political Rights which states torture and cruel, inhuman or degrading treatment or punishment as one of the seven provisions of the Covenant from which no derogation may be made; See also Article 4 of the Arab Charter on Human Rights

3 Which oversees the implementation of the International Covenant on Civil and Political Rights.

collective punishments, through arbitrary deprivations of liberty or by deviating from fundamental principles of fair trial, including the presumption of innocence.”⁴ In any case, Syria has not made any derogation from any international treaty - which means that it remains bound by all the provisions of the above-mentioned human rights treaties. In the event of breaches of the obligations provided for in the relevant treaties, the State shall be held accountable.

Syria is a party signatory to the Convention on the Elimination of All Forms of Discrimination against Women since 2003; however it has made reservations to several articles of the Convention, in particular article 2, article 9(2) regarding women’s equal right with respect to the nationality of their children, article 15(4) regarding the freedom to choose their residence and domicile, article 16(1) (c-d-f-g) regarding the same rights and responsibilities during marriage and at its dissolution in terms of guardianship, wardship, trusteeship and adoption, article 16(2) regarding the legal effect of the betrothal and the marriage of a child due to their conflict with the provisions of Islamic Sharia law, as well as article 29(1) regarding arbitration between states in the event of a dispute.

Despite these reservations, Syria is bound by international obligations to “prevent, investigate, prosecute and punish” the perpetrators of violence against women⁵. International law also includes specific provisions on sexual violence, particularly in the context of armed conflict. Since the Security Council adopted resolution 1325 (2000), it acquired the authority to deal with all forms of sexual violence committed in troubling situations, i.e. situations of instability that may lead to conflict, post-conflict situations or political unrest⁶. The Security Council recently recognized the links between maintaining international peace and security and combating violence against women, especially sexual violence, through the adoption of Resolution 2122 (2013).⁷

International criminal law also includes an explicit reference to sexual violence against women. The Rome Statute defines acts of sexual violence as “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity”; it also states that such acts may amount to war crimes or crimes against humanity when committed as part of a state policy or widespread or systematic atrocities that are overlooked or tolerated by the Government, any de facto authority or any organized armed group. They may also be considered as acts of torture when committed at the instigation of a government official or may be attributed to the State. According to international criminal law, sexual violence committed in the context of a military conflict may be considered as a weapon of war if civilians are deliberately targeted and used for military or political purposes.⁸

The Independent International Commission of Inquiry on the Syrian Arab Republic issued a report in August 2013 stating that “sexual violence has played a prominent role in the conflict, owing to the fear and threat of rape and by the violence committed. It occurs during raids, at checkpoints and in detention centres and prisons across the country. The threat of rape is used as a tool to terrorize and punish women, men and children perceived as being associated with the opposition. Underreporting and delayed reporting of sexual violence is endemic, assessing its magnitude difficult.” The International Commission of Inquiry concludes that “rape and other inhumane acts, as crimes against humanity, were committed by government forces and the National Defence Forces. Rape and inhuman treatment are also prosecutable as war crimes.”⁹

The Independent International Commission of Inquiry on the Syrian Arab Republic also issued a report in June 2016 - the so-called Islamic State of Iraq and Al-Sham (ISIS) is committing genocide against Yazidis, according to the report, “They Came to Destroy: ISIS Crimes Against the Yazidis”. The Commission also determined that ISIS’s abuse of Yazidis amounts to crimes against humanity and war crimes. “Genocide has occurred and is ongoing”, emphasized Paulo Pinheiro, Chair of the Commission. “ISIS has subjected every Yazidi woman, child or man that it has captured to the most horrific of atrocities.” As per the Commission’s mandate, the report focuses on violations committed against Yazidis inside Syria, where thousands of women and girls are still being held captive and abused, often as slaves.¹⁰

Moreover, the Syrian Government has not fulfilled its obligations under the international agreements and conventions it has ratified which all provide for the protection of civilians, particularly children and women and especially in times of conflict.

4 See General Comment No. 29, Article 4: Derogations during a State of Emergency, 2011, Document Symbol: CCPR/C/21/Rev.1/Add.11, paragraph 11.

5 General Assembly Resolution 63/155 (2008).

6 Security Council’s resolutions on « Women, Peace and Security »: Resolutions 1325 (2000); 1888 (2009); 1889 (2009); 1860 (2010); 2106 (2013).

7 See: <http://www.peacewomen.org/assets/file/sgres2122.pdf>

8 It was adopted in 1998 and entered into force in 2000; Rome Statute established the International Criminal Court.

9 See: Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, August 2013 (A/HRC/24/46), sections 95-100.

10 <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20113&LangID=E>

Women in detention¹¹

When Syrian men and women took to the streets in early 2011 in peaceful demonstrations to call for democratic reforms, the authorities responded with mounting repression, including arbitrary detentions, enforced disappearances and torture. Six years later, the number of people detained by government forces was more than 106,727, according to the Syrian Network for Human Rights' figures, and 82,676 according to Urnammu. The Violations Documentation Center in Syria also documented 66,571 cases, including thousands of women.

The Syrian Network for Human Rights has documented the arrest of 6,177 women who are still held by the Syrian security forces across the country, including not less than 319 girls below the age of 18, 107 women detained with their children and 161 women who died in detention and under torture.¹² Date: March 2011 to

Urnammu¹³ has documented the arrest of 4,461 women, including 232 girls below the age of 18, 2,991 of whom are detained in an unknown place. 97 women and 8 girls below the age of 18 have been killed¹⁴. Date; March 2011 to April 2017

The Syrian Center for Statistics and Research¹⁵ has documented around 427 cases of arbitrary detention of women, including 14 girls below the age of 18, in addition to three women of unspecified age. 57 women died in detention centers and under torture, including two women below the age of 18 and one of unspecified age. Date: March 2011 to February 2017.

It is difficult to know the accurate numbers of detainees since the Syrian Government does not grant independent observers access to detention centers. Efforts by Syrian human rights organizations to document these cases indicate that thousands of women have been detained and often cut off the outside world.¹⁶ Armed extremist militant groups have taken women and children hostage as tools for negotiation with the Government to release some of their detainees. Such acts included the kidnapping of nuns, women and children in the countryside of Latakia and the arrest and use of women and children in the industrial area of the town of Adra as human shields by the Army of Islam. The Government often shows some tolerance in negotiations in order to secure the release of women.

Some of these women face domestic violence upon their release from detention or during their detention by the opposition and armed factions. Some have been divorced by their husbands and some have been killed by their families.

In light of this widespread violence, persistent repression, threats, social stigmatization and the failure of the international community to address impunity and protect civilians, most women are reluctant to report abuse happening in places of detention. This further complicates documentation efforts. It also makes accountability, psychosocial equity and financial compensation, which are important elements of conflict resolution, extremely difficult.

Similarly to other conflicts, the prolonged Syrian conflict has involved the gradual use of women as a weapon of war and intimidation. The effect of these violations is not limited to the psychological and physical harm endured by women in detention, but also extends to families disunity and the destruction of the Syrian social fabric, making the prospects for restoring normal lives even more out of reach.

Shelters and safe houses for women survivors of violence

There are only three shelters for women survivors of violence, all in Damascus, mainly for victims of gender-based violence:

- The Good Shepherd shelter (Al-Rahi Al-Saleh) which is run and funded by the Good Shepherd Sisters of Syria.

11 According to Syrian organizations' documentation

12 [Methodology of the Syrian Network for Human Rights](#), pages 7-6

13 http://www.urnammu.org/?page_id=6340

14 In case of changes in the numbers on the date of publication, this is due to the fact that the [documentation process](#) is ongoing on a daily basis

15 The [work methodology](#) of the Syrian Center for Statistics and Research

16 EuroMed Rights, « Detention of Women in Syria : A Weapon of War and Terror” 2015 http://euromedrights.org/wp-content/uploads/2015/06/EMHRN_Womenindetention_EN.pdf

- It has a hotline, the only one operating in Syria (Trust Hotline)
- The Charity shelter which is run by the Sisters of Charity and co-funded in partnership with the UNHCR in Damascus
- The Oasis of Hope shelter which is run by the National Association for Women's Role Development (AWRD) and funded by the Ministry of Social Affairs.

It is worth mentioning that the increasing rate of violence against women has led to a significant high rate of women seeking protection under the current circumstances.

These shelters receive victims from all Syrian governorates, regardless of their age, background and the harming party (family, warring parties). Where the government is the perpetrator, the issue is not tackled because of its sensitivity and fear of retaliation. The youngest girl to seek refuge in these shelters was 12 years old. Women are often referred through churches where they seek refuge in the first place or through the Juvenile Judge who refers minor girls to these shelters instead of sending them to prisons in order to protect them from exposure to criminal circles or from their family or society.

These shelters have a maximum capacity of 40 to 45 women, which falls short of the actual massive need. The shelters' administration strives to find job opportunities or other shelters as soon as possible for the victims in order to be able to take in new victims. Inmates lack legal protection since the law does not protect them from being returned to their families, even if they were thought to be at risk of an honor killing for example; consequently, the shelter administration is forced to deny the presence of the girl even if her parents bring the police.

There are many centers and associations that provide psychological counseling and support, as well as empowerment services, including the Red Crescent – the Good Shepherd Sisters - The Syrian Family Planning Association. They are run by these associations and have multiple sources of funding.

3. Protection framework and access to justice

Impunity continues to prevail in Syria and security forces cannot be held accountable for their crimes. In accordance with Legislative Decree No. 64/2008, dated 30/9/2008, which granted the Police, the Political Security Department and Customs Division immunities that have never been granted to them since the establishment of the Syrian State.

There is no clear definition of the term "moral support" in the anti-terrorism legislation; this makes many women at risk of detention simply for being related to or having personal relationships with terrorism suspects.

Lawyers may not seek review by security branches. Legal representation is not allowed for security prisoners. Although the role of lawyers is protected in court, they are not allowed to seek review by or appear before the field courts or the counter-terrorism court. This deprives detained women from the right to have a lawyer present during interrogation which is usually done under torture. They are also denied the right to fair trials.

There are dozens of cases in Adra prison for women (placed for the military field court or counter-terrorism court) which are never brought to justice.

4. Combating violence against women in the framework of international cooperation

The European Union uses numerous programs and financial instruments to implement the agenda of the UN Security Council Resolution on Women, Peace and Security¹⁷ in Syria, while giving priority to combatting sexual and gender-based violence in the context of the conflict and supporting women's empowerment and participation in negotiations, mediation and preventive peace dialogues.

In 2015, in its conclusions on the EU regional strategy for Syria, the EU Foreign Affairs Council stated that "The EU will integrate women's empowerment and their full and effective participation as a key objective in all efforts which will be supported under the strategy, in line with the UN Security Council resolution 1325 and related resolutions."¹⁸ The conclusions included a specific reference to violence and insecurity faced by women, which were also condemned by the Council in October 2015, in addition to condemning sexual violence perpetrated by Da'esh and other terrorist

17 UN Security Council Resolution 1325 (2000)

18 EU Foreign Affairs Council's [conclusions](#) on the EU Regional Strategy for Syrian and Iraq as well as the ISL/Da'esh threat

organizations against civilians. The conclusions also pointed to the importance of the participation of women and civil society in efforts to reach a political solution. In her statement at the Geneva II Conference on Syria in January 2014, EU High Representative, Catherine Ashton, encouraged “both parties to appoint women to their Geneva II delegations as their involvement in the process leading to a political settlement is crucial for its sustainability.”¹⁹

The European Union supports the capacities of civil society and women organizations as key partners in the implementation of Security Council resolution 1325. EU humanitarian assistance includes basic assistance adapted to the needs of women and girls, as well as specific actions to protect women and girls and support livelihoods.

The European Union has relied on the Instrument contributing to Stability and Peace (IcSP) to respond in a comprehensive manner and support conflict prevention, peace-building and crisis and global security threats management, while taking strategic actions to protect, support and empower women. As of March 2017, the EU committed more than € 42 million for the protection of the victims of armed conflict in Syria, including activities related to gender-based violence and child protection.

Three projects currently funded through this instrument are of particular importance in this area²⁰ :

- “Supporting transition towards democracy in Syria through preparing for an engendered constitution building process”, implemented by Initiative Féministe Européenne pour une Autre Europe, € 1 million.
- “From Impunity to the Rule of Law: Enhancing the Analytical Capacities of the Syrian Commission for Justice and Accountability to Promote Conflict Transformation in Syria”, implemented by A.R.K. FZC, € 2 million. Through this project, field investigators have been trained on sexual violence evidence collection and investigations. They have completed around 350 screening interviews and transferred more than 1,500 kilograms of documents outside Syria.
- “Strengthening social cohesion for a democratic and inclusive Syrian civil society”, implemented by the Spanish Agency for International Development Cooperation (AECID), € 14 million. The project supports women to play a leading role in Syrian society through trainings on gender issues and projects to increase women’s participation in political processes.

Nevertheless, gender issues, as well as those related to women, peace and security are not officially listed in the European Union’s Comprehensive Approach to the Syrian Crisis²¹, issued in June 2013, neither in the “The EU and the crisis in Syria, factsheet”, March 2017, delineating its relation with Syria, knowing that the document has been updated to further focus on accountability and violations of international humanitarian law and international human rights law²².

19 EU participated in the Geneva II peace conference on Syria (21/01/2014)

http://eeas.europa.eu/delegations/un_geneva/press_corner/focus/events/2013/20140121_ashton_syria_en.htm

20 According to data presented by the European Commission, the IcSP contributed with an amount of € 42592591 to fund 12 projects in Syria: <http://www.insightonconflict.org/icsp/>

21 “A Comprehensive EU approach to the Syrian Crisis” (24/06/2013)

22 «The EU and the crisis in Syria, [factsheet](#)” (14/03/2017)

5. Recommendations

Recommendations to the international actors (UN, EU and the State actors in the negotiations):

- *Place pressure on the conflicting parties to return to the negotiating table, with the involvement of all relevant international actors; strengthen the participation of women in the negotiations and in transitional justice and peacebuilding processes through the recognition of civil society and women's organizations as an independent party at the negotiating table;*
- *Call for a political solution that would include a Syrian Constitution prohibiting torture and other cruel, inhuman or degrading treatment, as well as ensuring the independence of the judiciary, and that explicitly enshrines gender equality and the prohibition of discrimination and violence against women (VAW);*
- *Hold to account the perpetrators of violations of international humanitarian and human rights law; call for compensation for the crimes committed against women (especially sexual violence) and refer the issues to the International Criminal Court (ICC) or address them through other accountability mechanisms;*
- *Urge the Syrian authorities to repeal the Judicial Police and Terrorism Acts, improve the conditions of women in detention, and immediately release those who are arbitrarily and unjustly detained;*
- *Mainstream UN Security Council resolution 1325 and adopt more gender-sensitive policies in relation to the Syrian conflict.*

Specific recommendations to the donor community:

- *Support the Syrian civil society in the fields of human rights, accountability, peacebuilding and gender issues;*
- *Develop a gender strategy for humanitarian aid and adopt a gender-sensitive response to the refugee crisis; include the needs of women's empowerment in all relief programs;*
- *Take urgent measures to provide funding for mechanisms aimed at offering adequate social, medical, psychological and economic rehabilitation to Syrian women victims of serious violations, including sexual assault, in particular for refugee and displaced women; provide sustained funding to women's rights organisations working in ISIS-Daech controlled areas;*
- *Link financial support to neighbouring countries hosting Syrian refugees to the degree to which neighboring countries are committed to protecting Syrian women from violence and to respecting their responsibilities toward them.*

BIBLIOGRAPHIC INFORMATION

Title: Syria Fact Sheet on Violence against Women

Principle Author: Sabah Al Hallaq, Sema Nassar

Corporate author: EuroMed Rights

Publisher: EuroMed Rights

Date of publication: April 2017

Pages: 8

Languages: Arabic, English

Layout design and cover design: EuroMed Rights

Index terms: Women's Rights/ Human Rights / International Law /

International Humanitarian Law/

Geographical terms: Syria

Direction and Supervision: Muna Samawi, Berenice Michard; Rim Filali Meknassi

Arabic proofreading: Dr. Hassan Abbas

English proofreading : Muna Samawi

Contributions: Syrian Center for Statistics and Research; Syrian League for Citizenship, Syrian Network for Human Rights; URNAMMU, Lawyer Daad Mousa