

Joint Submission for the UPR of Syria

40th session of the UPR Working Group



January-February 2022

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Design: Aline Nassar

For more information, please contact:

👤 Women's International League for Peace and Freedom (WILPF)
📍 Rue de Varembe 1, Case Postale 28, 1211 Geneva 20, Switzerland
✉️ mena@wilpf.org ☎️ +41 (0) 22919 70 80 🌐 wilpf.org

About the submitting organisations



Urnammu for Justice and Human Rights

is an independent, non-governmental, nonpartisan and non-profit organization that was established in 2014 by a group of human rights defenders and activists in order to promote the principles of human rights and the rule of law. Urnammu provides assistance to individuals whose rights under international conventions and covenants and local laws have been violated. The values of the Urnammu are derived from the principles of international human rights, social justice and equality, in accordance with the United Nations agreements, conventions, and treaties.

<https://www.urnammu.org>



The Syrian League for Citizenship (SL4C)

is a civil society organization, for all those willing to contribute to the establishment and spreading of the citizenship's concepts, principles, and values. SL4C focuses on three aspects of relationships: the ones between citizens and the State, those in-between citizens, and between citizens and their hosting environment. It believes in the establishment of solid principles of full and integrated citizenship, as the precondition to set up the desired democratic civil state and to secure sustainable social stability in Syria.

<http://sl4c.org/ar/>



Women Now for Development

is a Syrian feminist non-profit organization dedicated to deepening and strengthening women's role in Syrian and host communities by enhancing their political, social, economic and cultural participation.

<https://women-now.org>



Dawlaty

is a Syrian, feminist, independent civil society organization committed to values of equality, equity, justice and human rights. Dawlaty's mission is to enable the Syrian civil society partners, marginalized groups, and young men and women, to achieve democratic transition in Syria, creating a more inclusive narrative of the conflict in Syria and achieving justice and dignity for all. Dawlaty works on the ground and online to document, advocate and build capacity for marginalized groups, civil society groups, and young people.

<https://dawlaty.org>



The Badael Foundation

is a Syrian non-governmental organization (NGO) that was founded in 2013 by a dedicated Syrian rights activist. Badael's mission is to foster transformative justice as the foundation for real and sustainable peace in Syria, by supporting organic civil society development and promoting discourses and narratives within and around the Syrian context that are rights-based, pluralistic, inclusive and that facilitate holistic truth and understanding.

<https://badael.org>



The Syrian Female Journalists Network (SFJN)

is one of the few organizations specialized in feminist media that works with Syrian journalists and media institutions on gender-sensitive reporting. It advocates for the rights of women media workers and human rights defenders. SFJN utilizes media as a tool for feminist social change, through addressing discourse, diversity, and protection in the media sector.

<http://www.sfjn.org>



Women's International League for Peace and Freedom (WILPF)

was founded in 1915, and since then it has united women around the globe to work for peace by non-violent means and by promoting political, economic, and social justice for all. WILPF addresses the root causes of war and violence through a feminist lens and constantly challenges systems of oppression, militarism, patriarchy, and neoliberalism.

<https://www.wilpf.org>



Note on translation

Unless otherwise indicated, all translations of Arabic quotes and names in this submission were made by the authors of the report and are unofficial.

Table of contents

I. Introduction	06
II. Legal discrimination against women and girls A. Penal Code B. Personal Status Law C. Nationality Law Recommendations	07
III. Situation of women journalists and Women Human Rights Defenders (WHRDs) Recommendations	12
IV. The impact on women of the continued massive scale enforced disappearances Recommendations	15
V. The impact of forced displacement on women Recommendations	18

I. Introduction

1. Since the last Universal Periodic Review (UPR) cycle (hereinafter, UPRII), the Syrian government has not taken any steps towards the implementation of the recommendations it had accepted with regards to civilians affected by the war, including women, and with regards to women's rights.

The Syrian people continue to suffer from violent repression and armed violence that have led to ongoing grave human rights violations and serious violations of international humanitarian law. While Syrians from all backgrounds are affected by the conflict, women and girls are disproportionately impacted on several levels. The pre-existing patterns of violations against women and girls based on structural discrimination against them in law and practice were exacerbated by the conflict.¹

2. It is recognised that violence and repression have differentiated gendered impacts on men, boys, women and girls and people with other identities. For example, the 2018 Commission of Inquiry on Syria's report on sexual and gender-based violence shows the differential way in which all those who are made vulnerable by the conflict and the power dynamics within it are affected.² However, this UPR submission focuses primarily on women and girls and the different impacts the country's human rights situation, exacerbated by the conflict, has on them.

1. A/HRC/46/54, para 48 "Civilians' experiences in the conflict in the Syrian Arab Republic have been deeply gendered. Sexual and gender-based violence against women, girls, men and boys has been documented by the Commission since 2011. While the immense suffering induced by those practices affected Syrians from all backgrounds, women and girls were disproportionately affected and victimized on multiple grounds, irrespective of the perpetrator or geographical area." Note: The Commission should have used less disempowering language than "victimized" to express the impact of the conflict on women and girls.

2. See, for example, WILPF statement on Syria to the UN Human Rights Council 38th session (18 June to 6 July 2018), available at https://www.wilpf.org/wilpf_statements/hrc38-wilpf-statement-on-the-importance-of-consistent-gender-analysis-in-syria/

II. Legal discrimination against women and girls

3. The Syrian Constitution and legal framework contain several gaps and provisions that contradict the principle of full equality between men and women.³ The Nationality Law⁴, the Personal Status Law⁵, and the Penal Code⁶ contain flagrant examples of legal discrimination against women. During the last UPR cycle (UPRII), Syria received and accepted nine recommendations to amend existing legislation to eliminate legal discrimination against women, including specific recommendations on the Penal Code and the Personal Status Law⁷, as well as regarding the introduction of legal provisions that criminalise domestic violence⁸. Although legislative reforms have been since introduced to amend some of these laws, they have failed to achieve effective equality and to address these issues.

3. See <https://www.wilpf.org/portfolio-items/the-human-rights-of-women-in-syria/>

4. Full legislative decree available in English at <https://www.refworld.org/pdfid/4d81e7b12.pdf>

5. 2019 revised law available in Arabic at <https://bit.ly/3i7gkx0>

6. Available in Arabic at <https://learningpartnership.org/sites/default/files/resources/pdfs/Syria-Penal-Cade-1949-Arabic.pdf>

7. A/HRC/34/5 para 109.14 Amend the Penal Code and the Criminal Code to eliminate mitigated sentences for rapists who marry their victims for so-called “honour crimes” (Sierra Leone) and 109.91 Conduct a review of the personal status law and other relevant laws, which will remove the provisions that are discriminatory towards women, such as those not granting them guardianship of their children, disabling them from travelling on their own with their children or not allowing them to transfer their citizenship to their children (Czechia); CEDAW/C/SYR/CO/2 para 18 c); CRC/C/SYR/CO/5 para 8 b).

8. A/HRC/34/5/Add.1, recommendations 109.88 Take steps to incorporate provisions on gender equality and discrimination against women in the Constitution or national legislation (El Salvador); 109.90 Amend the citizenship law of 1969, which prevents women from granting citizenship to their children, to ensure women's right to grant citizenship to their children (Namibia); 109.91 Conduct a review of the personal status law and other relevant laws, which will remove the provisions that are discriminatory towards women, such as those not granting them guardianship of their children, disabling them from travelling on their own with their children or not allowing them to transfer their citizenship to their children (Czechia); 109.92 Repeal all discriminatory provisions in the personal status code and ensure equality of rights between men and women (Ghana); 109.14 Amend the Penal Code and the Criminal Code to eliminate mitigated sentences for rapists who marry their victims for so-called “honour crimes” (Sierra Leone); 109.176 Draft and adopt legislation to end violence and discrimination against women (Maldives); 109.15 Adopt national legislation criminalizing domestic violence (Sierra Leone); 109.180 Protect women and girls from child, early and forced marriage (Sierra Leone); 109.181 Prohibit early and forced marriage (Ghana).

A. Penal Code

4. Syria has received recommendations to amend the Penal Code, including by repealing articles 192, 242 and 548⁹.

5. On 17 March 2020, Law N° 2 of 2020 was promulgated to repeal Article 548 of the Penal Code¹⁰ and all legal texts that replaced it, which had previously allowed perpetrators of femicide to benefit from mitigating circumstances if the murder was based on a so-called “honourable intent.” As such, the article justifying “honour crimes” was abolished in theory. In practice, however, the courts can still use this mitigating factor in accordance with general rules stipulated in other articles of the Penal Code, such as Article 242, which allows judges to reduce sentences in cases of murders committed (by men or women) in the event of anger, or when motivated by an illegal act provoked by the victim¹¹. Such illegal acts, for instance, can be interpreted to cover extra-marital affairs, which are illegal in Syria.

6. In addition, Article 192 of the Penal Code, allows judges to reduce sentences for crimes conducted on the ground of “honour”¹². Provided that “honourable motive” is not defined in Syrian law, this article leaves it entirely to the judge’s discretion to assess the crime’s motive and to qualify it as such, as well as to commute sentences on this ground. Thus, the abolition of Article 548 of the Penal Code does not address the issue of impunity for crimes committed against women including “honor killings”.

7. Concerning sexual violence, the Penal Code does not recognise marital rape. In 2020, the Syrian parliament amended Article 489 of the Penal Code to increase the penalty for rape in cases where the victim is younger than 15 years old or if the offence took place in the possession of a firearm. However, this article explicitly excludes the rape of a spouse, and thus effectively allows marital rape¹³. Therefore, there are no explicit legal provision in the Penal Code addressing cases of sexual violence perpetrated by a husband against his spouse¹⁴. There are also currently no laws in Syria prohibiting domestic violence. This is despite Syria having received recommendations from the CEDAW Committee¹⁵ and the Committee against Torture¹⁶ to adopt legislation to prevent and criminalize domestic violence and to criminalize marital rape, and having supported a UPR recommendation to “Adopt national legislation criminalizing domestic violence.”¹⁷

9. A/HRC/34/5, para 109.14 Amend the Penal Code and the Criminal Code to eliminate mitigated sentences for rapists who marry their victims for so-called “honour crimes” (Sierra Leone). CEDAW/C/SYR/CO/2 (CEDAW 2014), para 25. The Committee recommends that the State party: (a) Repeal articles 192, 242 and 548 of the Penal Code to ensure that perpetrators of so-called “honour crimes” cannot invoke the defence of honour as a mitigating circumstance; (b) Eliminate impunity in the case of so-called “honour crimes” by, among other things, strengthening the identification and investigation of such crimes, in addition to the prosecution and punishment of perpetrators; (c) Ensure that individuals reporting such crimes are protected, together with women at risk of being victims of such crimes; A/HRC/17/25/Add.3 (SR Health 2011), (g) Seek immediate amendment of the Penal code provisions which discriminate against women, particularly those relating to instances of gender-based or family violence > (h) Conduct research into the prevalence and nature of gender and family-based violence nationwide, with a view to discovering the extent of the problem and taking steps to redress it.

10. Article 548: “He who catches his wife, sister, mother or daughter by surprise, engaging in an illegitimate sexual act and kills or injures them unintentionally must serve a minimum of two years in prison.”

11. Article 242 of Penal Code says “He who commits a crime in a state of great anger resulting from a wrongful and dangerous act on the part of the victim shall be liable to the mitigating clause.”

12. See more at <https://english.enabbaladi.net/archives/2020/03/how-have-provisions-of-honor-killings-evolved-in-syrian-law/>

13. Article 489 of the Penal Code states: 1) Any person who has sexual intercourse with someone other than their spouse, without their consent, whether by violence or threat shall be punished with hard labour for at least 15 years; 2) The sentence shall be the death penalty if: A- the victim is less than 15 years of age.

14. UNFPA report on Syria Gender Justice & the Law, page 13, available at <https://arabstates.unfpa.org/en/publications/gender-justice-law-syria>

15. CEDAW/C/SYR/CO/2, para 31 and 23.

16. CAT/C/SYR/CO/1, para 27.

17. 109.15 Adopt national legislation criminalizing domestic violence (Sierra Leone);

Source of position: see UPR matrix prepared by OHCHR and available at: <https://www.ohchr.org/EN/HRBodies/UPR/Pages/SYindex.aspx>

B. Personal Status Law

8. During UPR II, Syria received recommendations to amend discriminatory provisions under the Personal Status Law¹⁸, which grants unequal rights to women and men regarding marriage, divorce, custody and inheritance, as observed by the CEDAW Committee in 2014¹⁹. In 2019, Law No 4 of 2019 was promulgated,²⁰ amending some articles of the Personal Status Law. Despite an impression of improvement with regard to combating discrimination against women, the new provisions still include gaps and clauses that make the change a mere redraft that retains the discriminatory spirit of the previous law. In most cases, the amended law itself gives the judge the discretion to make the final decision.²¹ For example, the most prominent amendment was Article 16, which sets the legal age for marriage at eighteen for both men and women, but it does not necessarily prohibit under-age marriage of girls, since according to Article 18, judges can allow teenage marriage under certain circumstances.²² The Personal Status Law is also discriminatory in regard to custody of children. It favours male-blood relatives, as shown in Article 23, paragraph 2, which stipulates that guardianship shifts to the mother only if there is no male relative, and if she meets the conditions of guardianship, competency and the dowry.²³ Furthermore, and despite the recent amendments, Syrian Muslim women are still prohibited from marrying non-Muslim men, while Christian women are allowed to marry Muslim men; women's right to inheritance remains limited; and polygyny remains legal.²⁴

18. A/HRC/34/5, 109.91 Conduct a review of the personal status law and other relevant laws, which will remove the provisions that are discriminatory towards women, such as those not granting them guardianship of their children, disabling them from travelling on their own with their children or not allowing them to transfer their citizenship to their children (Czechia), and 109.92 Repeal all discriminatory provisions in the personal status code and ensure equality of rights between men and women (Ghana); A/HRC/19/11 (UPR 2012), 102.14 Revise its Personal Status Act to ensure that women and men have equal rights (Brazil); CEDAW/C/SYR/CO/2 (CEDAW 2014), 46. The Committee recommends that the State party: (a) Repeal all discriminatory provisions of the Personal Status Act, in particular those relating to unequal rights of women and men regarding marriage, divorce, custody, inheritance, polygamy and child and/or forced marriage; CRC/C/SYR/CO/5 (CRC 2019), (d) Amend the Personal Status Code to ensure that children of Muslim mothers and non-Muslim fathers, children born to unmarried parents and children born from situations of sexual violence are recognized, registered and have access to birth registration documents.

19. CEDAW/C/SYR/CO/2 (CEDAW 2014), para 17 "The Committee notes that article 33 of the Constitution of 2012 enshrines the formal principle of equality of Syrian citizens without discrimination. The Committee is concerned, however, at the: (a) Lack of a definition of discrimination against women in line with article 1 of the Convention; (b) Reinforcement by article 3 of the Constitution of rules of religious communities, a situation that will further complicate and delay efforts to eliminate discrimination against women, to the detriment of women's rights; (c) Discriminatory provisions against women in various articles of the Penal Code (e.g. arts. 473-475, 508 and 548), the Personal Status Act (e.g. arts. 12, 37, 70, 85 and 163) and article 3 of the Nationality Act; (d) Lack of detailed information on the continuing review of all legislation, in line with article 154 of the Constitution, in particular as regards the amendment or repealing of any legal provisions that discriminate against women.

20. Available in Arabic at <https://www.egov.sy/law/ar/294/0/> القانون+رقم4++لعام2019+القاضي+بتعديل+بعض+مواد+قانون+الأحوال+الشخصية+ال+1953+لعام+وتعديلاته+صادر+بالمرسوم+التشريعي+رقم+59+لعام+1953+وتعديلاته.html

21. Ibid.

22. Article 18, 1), stipulates that if a 15-year-old adolescent has reached puberty and expresses the conscient wish to get married, a judge will grant authorization for the marriage to take place, if he believes their claim, their physical ability and their knowledge of marital rights. See more at <https://sana.sy/?p=892746> in Arabic.

23. Under Article 23 of the Personal Status Law, stipulates that male blood relatives are still given privileged status in the area of guardianship. It states that the guardianship for the marriage shifts to the mother only if there is no 'male agnate', and if she meets the conditions of guardianship, competency and the dowry. The male agnate is the father or the person acting on the father's behalf according to the line of legal inheritance among unmarriageable kin.

24. See more at <https://syria.chathamhouse.org/research/new-amendments-to-personal-status-law-offer-small-gains-for-womens-rights>

C. Nationality Law

9. Finally, in UPR II, Syria received and supported recommendations to amend existing legislation in regard to transmission of nationality from a mother to their children.²⁵ In 2014, the CEDAW Committee also urged Syria to amend its Nationality Law, “in particular Article 3, in order to ensure that women and men enjoy equal rights to acquire, transfer, retain and change their nationality, in line with Article 9 of the Convention, and ensure its implementation”.²⁶ The CEDAW Committee also expressed concerns as to Syria’s reservations to the Convention, including to Article 9, paragraph 2, concerning the granting of a woman’s nationality to her children.²⁷ However, Article 3 of the Nationality Law has not been amended, and children of Syrian women continue therefore to not be entitled to Syrian nationality except in specific conditions. According to the law, a Syrian father can pass on his nationality to his children wherever they are born, while a Syrian mother cannot automatically pass her nationality to her children. Although Article 3. b of the Nationality Law²⁸ provides Syrian mothers with the right to pass their nationality to their children if they are born in Syria and if their fathers are unknown, this does not apply to children of Syrian women refugees and asylum seekers in host countries, since this provision only applies to children born in Syria.²⁹

10. Internally displaced women often cannot exercise their right to pass on their nationality to their children due to difficulties in obtaining the necessary civil documentation from the different jurisdictions, particularly in non-state controlled areas.³⁰ Many cases were recorded of women who were unable to register their children for several reasons, including the loss of identity papers and the lack of recognition of papers issued by certain non-state actors parties to the conflict in areas outside the control of the Syrian government.³¹ In the context of the armed conflict, characterised by mass forced disappearances and undocumented deaths of men, as well as by sexual violence, the fact that Syrian women are still not able to transfer their nationality to their children may, as noted by the Committee on the Rights of the Child in 2019, could exponentially increase the number of stateless children.³²

25. A/HRC/34/5, 109.91 Conduct a review of the personal status law and other relevant laws, which will remove the provisions that are discriminatory towards women, such as those not granting them guardianship of their children, disabling them from travelling on their own with their children or not allowing them to transfer their citizenship to their children (Czechia); 109.90 Amend the citizenship law of 1969, which prevents women from granting citizenship to their children, to ensure women’s right to grant citizenship to their children (Namibia).

26. CEDAW/C/SYR/CO/2, para. 38, a).

27. CEDAW/C/SYR/CO/2, para 16.

28. Article 3, “The following shall be considered as Syrian Arabs ipso facto: A) Anyone born inside or outside the country to a Syrian Arab father; B) Anyone born in the country to a Syrian Arab mother and whose legal family relationship to his father has not been established.”

29. Available in English at <https://www.refworld.org/pdfid/4d81e7b12.pdf> and in Arabic at <http://mofaex.gov.sy/ar/pages109/-احكام-خاصة-بالجنسية>; see also <http://www.syrianationality.org/index.php?id=18>

30. See Toolkit: Understanding statelessness in the Syria refugee context, available at <http://www.syrianationality.org/index.php?id=18>

31. See for instance UN Women report “Unpacking Gendered Realities in Displacement: The status of Syrian refugee women in Jordan,” page 7 and 8, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/68233.pdf>

32. CRC/C/SYR/CO/5, para. 23.

Recommendations

- Repeal Article 192 of the Penal Code to ensure that perpetrators of so-called “honour crimes” cannot invoke the defence of honour as a mitigating circumstance.
- Amend Article 23 of the Personal Status Law related to custody and guardianship so that women can be entitled to the right of guardianship over their children, with equal rights to men.
- Lift all reservations to CEDAW, especially to Article 2 and Article 9, paragraph 2, of CEDAW and amend national laws accordingly.
- Amend Article 489 of the Penal Code in order to criminalize rape under all circumstances, explicitly criminalizing marital rape.
- Adopt comprehensive legislation to prevent and criminalize domestic violence that provides for victim protection, assistance and support;
- Repeal Article 18 of the Personal Status Law in order to abolish fully child marriage in existing legislation and remove judges’ discretion to authorise child marriage;
- Ensure the right of women to pass on their nationality to their children in equal terms as their male counterparts, including by amending Article 3 of the nationality law.
- Ratify the Convention relating to the Status of Stateless Persons and the Convention on the Reduction of Statelessness.

III. Situation of women journalists and Women Human Rights Defenders (WHRDs)

11. During UPR II, there were three recommendations regarding the challenges faced by journalists and human rights defenders.³³ Syria supported two of these recommendations,³⁴ and noted one pertaining to journalists³⁵. In 2014, the CEDAW Committee also urged Syria to “guarantee the human rights of women activists,” including freedom of movement, expression, assembly and association, liberty and integrity of the person and access to justice. The Committee also urged Syria to “prevent, investigate, prosecute and punish attacks and other forms of abuse perpetrated against women activists and to take effective measures to end impunity for such acts”³⁶. Despite these recommendations, Syrian women human rights defenders (WHRDs) and activists still face several risks including restrictions to freedom of movement, arbitrary detention and enforced disappearances, displacement and violence, including sexual violence in detention.

12. Women media workers are affected by general restrictions and violations, including legal restrictions stipulated in the Constitution and other laws relating to media and freedom of expression. Women journalists continue to face harassment and threats by members of the Syrian government.³⁷ WHRDs have been facing several risks and obstacles, including restrictions to freedom of movement, which have increased with the conflict.³⁸

33. A/HRC/34/5/Add.1, recommendation 109.157 Immediately end all acts of torture and stop the arrest of human rights defenders, journalists and political dissidents (Norway); recommendation 109.167 Immediately release human rights defenders and other prisoners of conscience, particularly those detained and imprisoned for participating in peaceful demonstrations since March 2011 (Canada); and recommendation 109.189 Ensure the prompt, impartial and effective investigation into and put a stop to the arbitrary detention, harassment and persecution of human rights defenders (Slovenia).

34. Recommendations 109.167 and 109.189.

35. 109.157 Immediately end all acts of torture and stop the arrest of human rights defenders, journalists and political dissidents (Norway).

36. CEDAW/C/SYR/CO/2, para 30, b) and c).

37. For instance, in 2020, Mirna Al-Hassan, for instance, a journalist working in Idlib, was the target of a smear campaign by a member of the Syrian People's Council who spread rumours about her being sexually assaulted following which Al -Hassan faced threatening messages and other forms of online violence. See more at Enab Baladi, 'Syrian female journalists facing their bitter reality in Idlib', 14 March 2020, <https://english.enabbaladi.net/archives/2020/03/syrian-female-journalists-facing-their-bitter-reality-inidlib/>

38. The Status of Women Human Rights Defenders in Syria report, available at <https://whrdmena.org/wp-content/uploads/2016/12/Syria-Eng.pdf>

Recommendations

- Amend the Counter-terrorism law N° 19 of 2012, including its definitions of acts of terrorism, terrorist groups and financing of terrorism, as well as article 2 on plotting terrorism, to ensure that its scope is not interpreted to be extended to human rights defenders; and to bring definitions in conformity with international human rights standards.⁴⁸
- Make public the number of women detained on grounds of terrorism and guarantee the right to a fair trial before the Counter-Terrorism Court established in 2012.
- Release detainees and prisoners of conscience who were arrested for exercising their rights to freedom of expression, opinion and objection, and halt all arbitrary arrests and detentions.
- Put in place government policies and mechanisms that create a safe and enabling environment for the work of human rights defenders, with specific measures to the gender-specific risks faced by specific groups of human rights defenders, in accordance with the United Nations Declaration on Human Rights Defenders.
- Review Penal Code articles 375-376-377-278 on libel and defamation, the media law and other relevant laws in order to repeal or amend all articles that restrict or criminalize freedom of expression and bring it in accordance with the International Covenant on Civil and Political Rights.⁴⁹
- Revise existing laws regulating electronic media⁵⁰, in line with Human Rights Council resolution affirming that the use of the Internet is a fundamental human right⁵¹ and ensure the protection of human rights both online and offline, specifically of freedom of expression in line with the ICCPR.
- Submit its periodic report to the Human Rights Committee which is overdue since 2009.

48. As recommended by the CEDAW Committee in 2014, CEDAW/C/SYR/CO/2, paragraph 30, d), "To amend the Act on Combating Terrorism (Act N° 19/2012), in particular its definitions of acts of terrorism, terrorist groups and financing of terrorism, to ensure that it is in conformity with the Convention and other international human rights instruments, such as the International Covenant on Civil and Political Rights, and that its scope does not in practice extend to activities that do not constitute terrorism;"

49. These criminalised expressions include slander and defamation of the head of State, slander and defamation of public administrations and institutions, spreading false information that weakens national sentiment or undermines the nation's morale, sowing sectarian or doctrinal discord, weakening confidence in the national economy, trying to change the constitution, opposing the goals of the revolution, and others.

50. Available in Arabic at <https://scm.bz/studies/البيئة-القانونية-للإعلام-في-سوريا>

51. Adopted in its 32nd session, resolution A/HRC/32/L.20.

IV. The impact on women of the continued massive scale enforced disappearances

15. After a decade of conflict, tens of thousands of civilians remain forcibly disappeared, while thousands more have been subjected to torture, sexual violence or death in detention, and other violations resulted from government policies. These acts amount to crimes against humanity, as also stated by the independent UN Commission of Inquiry on the Syrian Arab Republic (the “Col on Syria”), which has found that such violations continue unabated and “without any sign that the government intends to discontinue them”.⁵²

16. In UPR II Syria received 33 recommendations to stop arbitrary detention and enforced disappearance, to improve conditions of detention and to abide by international treaties and protocols in this regard.⁵³ The Syrian government supported only four recommendations specifically on the ratification of the Optional Protocol to the Convention against Torture and the Convention for the Protection of All Persons from forced disappearance.⁵⁴ So far, it has not ratified them.⁵⁵ The recommendations supported by the government also included putting in place specific procedures regarding the release of those arbitrarily detained, putting an end to arbitrary detention, and informing the families of the whereabouts of their detained relatives.⁵⁶ The Col on Syria also called on the government to “cease incommunicado detention and allow all detainees to contact their family and a lawyer”⁵⁷ and to “release (...) those arbitrarily detained.”⁵⁸

17. Nonetheless, many Syrians are still at risk of arbitrary detention, including human rights defenders, with the fate of most detainees still unknown. In 2019, the government updated and released hundreds of records of detainees believed to have been missing or dead. However, they do not nearly cover the large numbers of the forcibly disappeared. Moreover, the vast majority of their families have not received the remains of their loved ones, nor have they received any information from the authorities.⁵⁹

52. See the Col’s 2021 report on Arbitrary Imprisonment and Detention A/HRC/46/55, para 102, and its 2018 Conference Room paper A/HRC/37/CRP.3 entitled “‘I lost my dignity’: Sexual and gender-based violence in the Syrian Arab Republic”.

53. A/HRC/34/5/Add.1, recommendations 109.123 (supported) ; 109.166 (noted); 109.169 (supported); 109.175 (supported); 109.174 (supported); 109.168 (supported); 109.171 (noted); 109.152 (noted); 109.154 (noted); 109.173 (noted); 109.7 (supported); 109.6 (supported); 109.82 (noted); 109.13 (noted); 110.19 (noted); 109.159 (noted); 109.153 (noted); 109.155 (noted); 109.164 (noted); 110.23 (noted); 110.22 (noted); 110.24 (noted); 110.26 (noted); 109.163 (noted); 110.21 (noted); 109.161 (noted); 109.156 (noted); 109.157 (noted); 109.170 (noted); 109.172 (noted); 109.5 (supported); 109.3 (supported) and 110.24.

54. Recommendations 109.3; 109.5; 109.7; 109.6.

55. See Syrian Arab Republic’s full ratification status of treaty bodies at the UN treaty body database: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx

56. Including recommendations 109.123; 109.169; 109.175; 109.174; 109.168; 109.173.

57. A/HRC/46/55, para. 111, b).

58. Ibid, para. 111, c).

59. According to the “Col on Syria,” “The Government and other parties are intentionally prolonging the suffering of hundreds of thousands of families of those forcibly disappeared by withholding information on their fate. The evidence shows that the Government is aware of the fate of most of those it has detained. Rather than investigate the crimes committed in its detention facilities, the Government continues to withhold information. This has had, and continues to have, a devastating impact on families,” A/HRC/46/55, para. 104.

18. As most of those detained and forcibly disappeared are men, women suffer doubly from the forced disappearance of their husbands or male heads of households.⁶⁰ As the main breadwinner for the family disappears, women find themselves and their families without an income and face increased and intersecting hardships.

19. According to a survey conducted by Dawlaty and Women Now for Development with more than 50 Syrian women relatives of missing persons,⁶¹ the majority stated that they have been displaced at least once and that as a result of displacement, more than 65% were unemployed. Economic opportunities are limited especially for women and some women cannot work because they remain the primary caretakers of children.

20. The economic and social vulnerability of female-headed households who have lost their breadwinner exposes these women to sexual exploitation in exchange for necessities.⁶² Some are trafficked and/or lured into prostitution under the promise of employment.⁶³ Moreover, some women have reported sexual harassment from employers, landlords, and others, as well as several additional risks faced by those who end up fleeing the country.⁶⁴ Furthermore, women responsible for providing for their families bear a heavy psychological burden because they also are primarily responsible for the traditional roles assigned to women in the family, including caring for emotional needs and tending to trauma.⁶⁵ The perpetual state of fear, anxiety, depression, and constant waiting and wondering about the missing, often leads to a complete disregard of their own psychological and physical health.⁶⁶

21. Another consequence of enforced disappearance of men on women is their inability to remarry, inherit, or even travel with their children, as these require either the husband's consent or proof of his death,⁶⁷ as stipulated under Articles 109 and 205 of the Personal Status Law.⁶⁸ The CEDAW Committee has also highlighted these concerns in 2014.⁶⁹ Syrian women also face difficulties in registering their children due to the inequality in the right to pass on their nationality, as illustrated earlier in the text.⁷⁰ Most Syrian women whose husbands have been forcibly disappeared have no proof of death or even of arrest, making it difficult for them and their families to move forward. In addition, the uncertain legal status of the disappeared (who are neither known to be alive nor officially declared dead) exacerbates the family's financial insecurity.⁷¹ Indeed, the wives of missing persons rarely have access to family assets or bank accounts registered in their husbands' names, and they are often denied social benefits allocated to married women.⁷²

60. A/HRC/46/54, para. 64.

61. Shadows of the Syrian Disappeared, available at <https://women-now.org/shadows-of-the-syrian-disappeared/#:-:text=This%20event%20will%20include%20the,well%20as%20panel%20discussions%20that>

62. See <https://timep.org/syrias-women/violence-against-women/violence-against-women/>

63. See <https://www.humanrightsfirst.org/blog/syrian-refugee-crisis-greenhouse-human-trafficking-0>

64. Such as physical assault and exploitation, see more at <https://www.amnesty.org/en/latest/news/2016/01/female-refugees-face-physical-assault-exploitation-and-sexual-harassment-on-their-journey-through-europe/>

65. See Shadows of the Syrian disappeared: testimonies of female relatives left with loss and ambiguity, Women now for development, 15 Nov 2018, pages 36 to 38, available at women-now.org/shadows-of-the-syrian-disappeared/; and see WILPF's 2020 Policy Brief on Sexual Violence by the Force of Arms against Women in Syria, available at <https://www.wilpf.org/portfolio-items/policy-brief-sexual-violence-by-force-of-arms-against-women-in-syria-a-tool-of-political-repression-social-dismantling-and-impoverishment-of-women-and-communities/>

66. The Col on Syria noted "The victims of enforced disappearances are not limited to the persons who were forcibly disappeared, but also comprises their families. Given the extent of enforced disappearances in the Syrian Arab Republic, the issues of detainees represent a national trauma that will affect Syrian society for decades to come", A/HRC/46/55, para. 105.

67. A/HRC/46/54, para. 64

68. Article 109 Personal Status Law;

1/ If the husband is absent for more than a year, his wife may ask the judge to separate because she is harmed by his absence from her, even if he has money from which she can spend.

2/ If the husband is sentenced to a prison sentence of more than three years, his wife may, after six months of imprisonment, ask the judge to separate because she is harmed by his absence from her, even if he has money from which she can spend. 3 / If the wife substantiates her claim with evidence, she can state under oath that she has been harmed by the absence of her husband. 4/ This differentiation is a revocable divorce. If the absent returns or prisoner is released while the woman is in the waiting he shall have the right to take her back.

69. CEDAW/C/SYR/CO/2, para 45, (b) "Difficulties faced by married women whose husbands have gone missing to escape from conflict-affected areas together with their children due to child custody restrictions not allowing them to travel with their children without the consent of their father or guardian."

70. Decree N° 276/1969; see A/HRC/46/54, para. 65; see also "Nationality Law" under the section Discriminatory Laws in this report.

71. See Shadows of the Syrian disappeared: testimonies of female relatives left with loss and ambiguity, Women now for development, 15 Nov 2018, page 36, available at women-now.org/shadows-of-the-syrian-disappeared/

72. International Rescue Committee, Identify Me: The Documentation Crisis in Northern Syria, July 2016, page 2.

Recommendations

- Immediately disclose the fate of the forcibly disappeared and publish official lists and statistics on detainees and their whereabouts.
- Establish information centres for the families of the disappeared to inquire about missing persons in every governorate.
- Ensure that independent humanitarian organisations - especially the International Committee of the Red Cross (ICRC) - have access to detention facilities and are able to safely monitor the conditions of detentions.
- Publish and disseminate the names of those who died in detention facilities run by the government or affiliated militias; and provide families with reports on the true causes of death and burial sites.
- Stop torture and other ill-treatment, sexual violence and extrajudicial killings in detention.
- Take urgent measures to release all arbitrarily detained persons and comply with UN Security Council resolution 2254 (2015), calling for a ceasefire and political settlement in Syria.
- Take all necessary measures to provide justice, truth and reparations and guarantees of non-recurrence to victims and their families.
- Amend Articles 109 and 205 of the Personal Status Law in order to guarantee full guardianship of children to women whose husbands have been missing, as well as to guarantee women's access to property rights in the absence of their husbands.

V. The impact of forced displacement on women

22. Since 2014, thousands of Syrian women and their families have been subjected to forced displacement as part of so-called “local reconciliation agreements,”⁷³ most of whom were relocated to unknown and unsafe locations in other parts of Syria. Forcibly displaced women had already suffered human rights violations prior to their displacement, including siege and starvation for years, continuous shelling, and denial of access to educational facilities, health care and services, as well as of access to food, medicine, clothes or other necessities. Accessing these basic services became more complicated for forcibly displaced women due to the COVID situation.⁷⁴

23. The forced displacement project, carried out in 2020 by Women Now for Development, in collaboration with forcibly displaced women, demonstrated that these women suffer extreme hardships in their exiles, experiencing severe mental trauma and lacking psychological, medical, economic, legal, educational and social support. They have lost their support circles, their loved ones, their original homes, and their social and political roles, not to mention their occupations in their places of origin.⁷⁵

“Displacement was not an option; it was something we were forced into. They gave us two options, either we die under the bombing, in the basements, or we die in the hands of the regime in its prisons or face all kinds of humiliation in the regime evacuation centers. Then came the decision of forced displacement, we forced ourselves to accept it because we had no other choice”

(N.H., forcibly displaced from Eastern Ghouta, 2018).

73. A policy implemented by the Syrian government in 2016 and 2017 to reclaim control over opposition-controlled areas through military and political pressure aimed at forcing opposition-controlled enclaves to surrender. See more at <https://op.europa.eu/en/publication-detail/-/publication/248fa732-4edb-11ea-aece-01aa75ed71a1>

74. WILPF, Covid-19 and Gender Justice: Feminists in MENA Defying Global Structural Failure, 2020, page 5, www.wilpf.org/portfolio-items/covid-19-and-gender-justice-feminists-in-mena-defying-global-structural-failure/

75. Women Now for Development, Position paper on Perspectives of Forced Displaced Syrian women and their Conditions, Rights and Demands, 2021, <https://women-now.org/position-paper-on-perspectives-of-forced-displaced-syrian-women-on-their-conditionsrightsand-demands-pdf/>

24. Women who were displaced to opposition-controlled areas or abroad are prohibited from returning to their homes.⁷⁶ Indeed, some of them would be imprisoned by government security forces due to earlier political, humanitarian or other roles. On the other hand, many displaced women no longer have homes to return to, since they were either destroyed or occupied by others. In addition, many women are unable to prove ownership of their property because they lack official documentation.⁷⁷ For instance, in order to claim the property owned by a spouse who has passed away or disappeared, a death certificate is necessary in order to prove the surviving spouse's entitlement to said property,⁷⁸ which is hard to obtain if the husband's fate is not disclosed in the context of incommunicado detention and enforced disappearances. Moreover, the Syrian government has recently issued several oppressive and discriminatory laws against women related to housing, land and property⁷⁹ that compound discriminatory pre-existing discriminatory provisions against women under the Personal Status law, which favor inheritance to the next male of kin.⁸⁰

25. Furthermore, many women do not possess official documentation, including identity documentation such as passports.⁸¹ Prior to the conflict very few women's names appeared on documentation related to the residence.⁸² As such, women's pre-existing unequal access to legal identity and civil documentation has been compounded by the conflict and mass enforced disappearances of men as women's legal identity in the Syrian civil registration system is linked to that of their husband or father.⁸³ The lack of legal and civil documentation limits displaced women's ability to move or travel, as well as to access health, education services and to exercise other rights, such as passing on their nationality to their children when the father is unknown.

76. See Mass Forced Displacement & its Consequences under a 'Reconciliation Agreement', available at <https://women-now.org/position-paper-on-perspectives-of-forced-displaced-syrian-women-on-their-conditionsrightsand-demands-pdf/>

77. NRC report on Displacement, HLP and access to civil documentation in the north west of the Syrian Arab Republic, Part 2: Housing, land and property rights in displacement, pages 17 and 18, available at https://www.ecoi.net/en/file/local/1406304/1930_1504608072_final-nrc-displacement-hlp-civil-doc-nw-syria-23-07-2017-en.pdf

78. Documenting Life and Death: Women's Experiences During Conflict in Syria and Iraq, page 24, available at: [https://crvssystems.ca/sites/default/files/assets/images/11%20EN%20CRVS%20in%20Confli...\]2C%20Emergencies%20and%20Fragile%20Settings_SyriaIraq_WEB.pdf](https://crvssystems.ca/sites/default/files/assets/images/11%20EN%20CRVS%20in%20Confli...]2C%20Emergencies%20and%20Fragile%20Settings_SyriaIraq_WEB.pdf)

79. Including Law no. 10 of 2018; Law N° 35 of 2017 and Law No 11 of 2016. See more at <https://paxforpeace.nl/media/download/policy-brief-syria-hlp-2020-english-10-03-2020.pdf>

80. See section II of this report, Discriminatory Laws, under sub-section B) Personal Status Law.

81. Ibid.; see also NRC report on Displacement.

82. UNHCR, Norwegian Refugee Council, Displacement, housing land and property and access to civil documentation in the south of the Syrian Arab Republic July 2017, page 18 and 19.

83. Unfortunately, comprehensive statistics or the exact numbers of forcibly disappeared women without legal and civil documentation are non-existent, which indicates how marginalised and understudied this group of women has been. See more at UNHCR, Norwegian Refugee Council, Displacement, housing land and property and access to civil documentation in the south of the Syrian Arab Republic July 2017, page 18 and 19.

Recommendations

- Amend current discriminatory provisions under the Personal Status law regarding land, housing and property ownership, including by repealing existing discriminatory inheritance laws and recently issued Laws no. 10 of 2018, N° 35 of 2017, and No 11 of 2016 on land ownership.
- Raise awareness of the public on the importance of civil and legal status documentation for women and facilitate the process for them to obtain this documentation so that they do not depend on spouses or male guardians' documentation.
- Provide gender-responsive legal support, services and consultations to forcibly displaced persons on how to obtain official identification papers in order to exercise their full rights to movement, healthcare and education, and to prove their ownership of properties in their places of origin, including properties belonging to their disappeared or deceased male relatives.
- Provide accessible and gender-responsive healthcare services to forcibly displaced women and their families, and make these services available for free and without requiring official identification documents or health insurance.

