

SYRIAN ARAB REPUBLIC

The on-going hostilities in the Syrian Arab Republic have had a severe impact on its civilian population, particularly women, who have faced increased levels of sexual violence and discrimination.¹ Rape is being used as an instrument of war.² Syrian women also face strong pressure to conform to prevailing social norms regarding acceptable female behaviour, in order to ensure that the family's 'honour' is upheld.³ Syrian women have seen their economic opportunities improve in recent years, with greater numbers of women entering the workforce.⁴ But they still face various degrees of inequality in the social sphere, as well as potential condemnation if they are overly visible and active in the public sphere.⁵

The Constitution of the Syrian Arab Republic grants equal rights to all its citizens in article 25, regardless of gender, and article 45 states that women are guaranteed 'all the opportunities that enable them to participate fully and effectively in political, social, cultural, and economic life'. Nonetheless, individual laws contain discriminatory provisions, and no legislation specifically prohibits gender-based discrimination.⁶ The Syrian Arab Republic ratified the Convention on the Elimination of All forms of Violence against Women in 2003, but has not yet ratified the Optional Protocol.⁷ Reservations to the Convention were made to Article 9(2), concerning the mother's right to pass on her nationality to her children; Article 15(4), regarding freedom of movement and choice of domicile; Article 16(1), mandating equal rights and responsibilities during marriage and upon its dissolution with regard to guardianship, kinship, maintenance, and adoption; Article 16(2), regarding the legal effect of the betrothal and marriage of a child; and Article 29(1), regarding arbitration between countries in the event of a dispute.⁸

1. Discriminatory family code

The legal system in the Syrian Arab Republic is based on French, Ottoman and Islamic Law. The Sharia Personal Status Law (PSL) regulates family affairs (including inheritance, marriage, divorce and child custody) for the majority of the population, namely the Sunni, Shia and Alawite Muslims.⁹ For Christian and Jewish women, church and rabbinical law govern personal status.¹⁰ An attempt to introduce a unified personal status code in

¹ CEDAW (2013) p.1

² Freedom House (2014)

³ Kelly and Breslin (eds.) (2010) p.465

⁴ Idem, p.470

⁵ Idem, p.479

⁶ Idem, p.462

⁷ United Nations Treaty Collection (2014)

⁸ Kelly and Breslin (eds.) (2010) pp.463-464; CEDAW (2013) p.2; Amnesty International (2013) p.3

⁹ UNICEF (2011) p.1; Amnesty International (2013) p.2

¹⁰ UNICEF (2011) p.1; Freedom House (2013)

2009 failed due to criticisms from women’s rights activists (who saw the new law as retrogressive) and from Christians (who argued that it would remove authority from their respective churches.¹¹ Amnesty International notes that many of the religious courts handling family affairs have stopped operating due to the current situation of unrest.¹²

Article 16 of the Personal Status Law sets the **legal age of marriage** in Syria at 17 years for women and 18 years for men, but judges may authorise marriages at younger ages (Art. 18): as low as 13 years for girls and 15 years for boys.¹³ Judges must use their discretion to assess whether the children are “physically fit” for marriage, and the presence and approval of their respective guardians are required.¹⁴ Up-to-date figures on **early marriage** are not available, but data from the 2006 Multiple Indicator Cluster Survey (MICS3) shows that 3.4% of girls were married before the age of 15, 17.7% before the age of 18. In addition, 2001 data from the UN shows that 10.9% of girls age 15-19 were married, divorced or widowed.¹⁵ Rates of early marriage are, however, reportedly high, particularly as displaced and refugee families endeavour to marry off young daughters as a safeguard against rape, a means of covering up the latter, or in response to economic pressures.¹⁶

Although marriage requires the consent of both parties (Arts 1, 6 and 7 of the PSL), women cannot marry without the consent of their male guardian, and it is the guardian who signs the marriage contract.¹⁷ Marriage contracts include a “special conditions” section, which provides space for the spouses to add their own conditions (e.g. relating to the pursuit of education after marriage or employment outside the home), and if these conditions are approved and signed by both parties, the couple is legally obligated to apply them during marriage.¹⁸ Many women are, however, unaware of this option and see the contract only after the marriage ceremony has been performed.¹⁹ In addition, most marriages are arranged, and women may face pressure to agree to a marriage for financial or social reasons.²⁰ Muslim women do not have the right to marry outside the faith; there are no such restrictions on Muslim men.²¹ Adultery is a criminal offence, but penalties for women are twice as those for men and the burden of proof is much lower for women.²²

Syrian personal status law also discriminates in the area of **parental authority**, granting fathers more rights than mothers. Husbands/fathers are deemed to be the head of household, and in the case of Jewish women, wives are obliged to obey their husbands or fathers.²³ According to the personal status law, only men can assume the role of guardianship over their own and other’s children; guardianship includes authority over the provision of

¹¹ Kelly and Breslin (eds.) (2010) pp. 461, 466

¹² Amnesty International (2013) p.3

¹³ UNICEF (2011) p.2; Amnesty International (2013) p.6

¹⁴ Amnesty International (2013) p.6

¹⁵ MICS3 (2008) p.114; see also UNICEF (2014) p.94

¹⁶ Freedom House (2014)

¹⁷ Amnesty (2013) p.5; Kelly and Breslin (eds.) (2010) p.466

¹⁸ Amnesty (2013) p.5

¹⁹ Idem, p.6

²⁰ Kelly and Breslin (eds.) (2010) p.466

²¹ Idem, p.465

²² Idem, p.462; Amnesty International (2013) p.5

²³ Idem, p.462

medical treatment, education, career guidance, and marriage consent (Art. 170). Women are instead regarded as custodians, charged with fulfilling the basic needs of their children.²⁴ In the event of **divorce**, Muslim women are usually granted custody of sons until they are 13 and daughters until they are 15 (although the father retains guardianship), and lose custody if they remarry.²⁵ Under the Catholic personal status law (introduced in 2006), both parents have equal guardianship rights over children during marriage, although if a couple separates, the father is offered custody first, and then the mother.²⁶

Sharia law provides for detailed and complex calculations of **inheritance** shares. A woman may inherit from her father, mother, husband or children, and under certain conditions, from other family members. However, her share is generally smaller than a man's entitlement.²⁷ A daughter, for example, inherits half as much as a son and widows without children often receive nothing at all.²⁸ In rural areas in particular, many women are not aware of their inheritance rights and are easily persuaded to transfer their entitled share to a male relative, in order to keep property within the family.²⁹ Sharia inheritance law applies to all other religious groups, with the exception of Catholics (following the introduction of a Catholic personal status law in 2006, under which women and men enjoy equal inheritance rights).³⁰ But non-Muslim women married to Muslim men are not entitled to any inheritance unless they convert.³¹

More

Polygamy is permitted under Islamic Sharia law, which allows Muslim men to take up to four wives.³² Syrian law gives judges the right to prohibit men from taking second (or subsequent) wives if they deem the man to be incapable of providing adequate financial support, but does not require the consent of the first wife.³³ According to data from a 2005 survey, 9% of urban men and 16.3% of rural men had more than one wife.³⁴

Muslim men can repudiate (**divorce** unilaterally) their wives, but women do not have the same right.³⁵ Women may seek a divorce according to a narrow set of criteria (e.g. the husband's illness or desertion), or can obtain a '*khula*' divorce if they renounce their dowry.³⁶ According to the 2006 JICA report, the divorce rate in the Syrian Arab Republic remains low (10% in 2004) partly due to stigma divorced women face stigma, although there is

²⁴ Amnesty International (2013) p.3

²⁵ Kelly and Breslin (eds.) (2010) p.467; UNICEF (2011) p.2; Amnesty International (2013) p.3

²⁶ Kelly and Breslin (eds.) (2010) p.468; UNICEF (2011) p.2

²⁷ Kte'pi (2013) p.1181

²⁸ Idem; World Bank (2013)

²⁹ Kelly and Breslin (eds.) (2010) p.461; Kte'pi (2013) p.1181

³⁰ Kelly and Breslin (eds.) (2010) pp.468, 471

³¹ Idem, p.470

³² UNICEF (2011) p.2; Amnesty International (2013) p.6

³³ Kelly and Breslin (eds.) (2010) p.466

³⁴ Idem

³⁵ Kelly and Breslin (eds.) (2010) p.467; Amnesty International (2013) p.7

³⁶ Idem; UNICEF (2011) p.2

some evidence that the prolonged crisis has driven up the divorce rate.³⁷ Moreover, no specific legal regulation was located in regards to women's right to reserve her financial rights upon the occurrence of divorce.

The United Nations reports an adolescent fertility rate of 54 per 1000 girls age 15-19.³⁸

2. Restricted physical integrity

Information on physical integrity in the Syrian Arab Republic must be contextualized within the current conflict, where evidence points to the systematic sexual assault of woman and girls by combatants and the widespread use of rape a 'weapon of war'. In addition, domestic violence and sexual exploitation is reportedly on the increase in sprawling refugee camps and overcrowded host communities.³⁹

There is no legislation in place specifically addressing **domestic violence** in the Syrian Arab Republic.⁴⁰ Domestic violence has long been a subject of social taboo, women have very limited legal recourse against violence inflicted upon them in their own homes, and many incidents remain unreported as victims are unwilling to seek help outside the family.⁴¹ When cases are reported, the police may be reluctant to intervene, and in some cases may in turn abuse the women, including sexual harassment, verbal abuse, hair pulling, and slapping.⁴² There is some limited support available to victims of domestic violence provided by women's organisations, including a number of non-official refuges. The Syrian Commission for Family Affairs also recently opened a shelter for battered women.⁴³ As mentioned above, there has reportedly occurred an exacerbation of domestic violence resulting from the conflict, but precise data on prevalence is not available.⁴⁴

Rape is a criminal offence in the Syrian Arab Republic, but the law does not recognise the concept of spousal rape,⁴⁵ specifically defining rape as "when a man forces a woman who is not his wife to have intercourse."⁴⁶ Punishment for rape carries a minimum sentence of 15 years in prison, but the law is not effectively enforced.⁴⁷ In 2011, President al-Assad amended the Penal Code by decree, imposing a penalty of at least two years' imprisonment for those convicted of rape or other sexual assault in cases where they marry their victim (formerly, perpetrators were exempt from prosecution or punishment if they married their victim).⁴⁸ However, women and girls who are victims of rape often face hostility from the police themselves, as well as social ostracism and pressure to withdraw allegations. In addition, women and girls who have been raped may then be at risk of violence at the hands of their own family, for having brought 'shame' on the family's honour.⁴⁹ As

³⁷ JICA (2006) p.34; Kelly and Breslin (eds.) (2010) p.481; Almonitor (2013)

³⁸ United Nations World Fertility Data (2013), data from 2008

³⁹ The Guardian (2013); Amnesty International (2013) p.2; US Department of State (2012)

⁴⁰ World Bank (2013)

⁴¹ US Department of State (2012)

⁴² Idem

⁴³ UNICEF (2011) p.2

⁴⁴ CEDAW (2013) p.3

⁴⁵ Amnesty International (2013) p.2; Kelly and Breslin (eds.) (2010) p.470

⁴⁶ UNICEF (2011) p.2; US Department of State (2012)

⁴⁷ US Department of State (2012)

⁴⁸ Amnesty International (2013) p.8

⁴⁹ Amnesty International (2010) p.315

mentioned above, rape as a tactic of war has been widespread during the on-going conflict, and although precise data is not available, the Syria Network for Human Rights (SNHR) reported as many as 4,000 cases of rape and mutilation of women and girls while the UN and NGOs reported cases of extreme violence against women ranging from the high hundreds to the thousands in 2012.⁵⁰

Articles 505 and 506 of the Criminal Code specifically address **sexual harassment** and detail criminal sanctions depending on whether the victim is a minor or an adult.⁵¹ The law is not, however, enforced and victims rarely report cases of sexual harassment due to social stigma.⁵² Data on prevalence is not available.

Female genital mutilation (FGM) does not appear to be practised in The Syrian Arab Republic.⁵³

More

So-called **honour crimes**, whereby a woman is punished or even killed by male family members for having brought “shame” on the family honour, also occur. The Syrian penal code⁵⁴ allows more lenient sentences for crimes committed in the name of “honour” although a 2011 decree by President al-Assad amended the law, increasing the minimum penalty for crimes committed against women in the name of family “honour” from at least two years to between five and seven years.⁵⁵ According to an interior Ministry estimate for 2009, there were 38 “honour crimes,” although NGOs estimated as many as 300-400 such crimes in 2012, and human rights groups report that practice continues at previous or even higher levels due in part to the on-going violence.⁵⁶

Contraception is available free of charge from government-run clinics. According to the Multiple Indicator Cluster Survey (MICS3) in 2006 42.6% of women age 15-49 married or in a union reported using a modern form of contraception; while in 2010 10% had an unmet need for family planning.⁵⁷ While this is the formal legal framework, implementation is lacking.⁵⁸

Abortion is only legal in cases where the pregnant woman’s life is in danger.⁵⁹ There is limited information available on effective access to contraception, although given the unstable security situation, access to health facilities is limited.⁶⁰

3. Son bias

The male/female **sex ratio** for the working age population (15-64) 2013 is 1.03 while the sex ratio at birth was 1.06.⁶¹

⁵⁰ US Department of State (2012)

⁵¹ World Bank (2013)

⁵² US Department of State (2012)

⁵³ Kelly and Breslin (eds.) (2010) p.479

⁵⁴ Article 192

⁵⁵ Amnesty International (2013) p.8; Freedom House (2013); CEDAW (2013) p.3

⁵⁶ US Department of State (2012); Freedom House (2013)

⁵⁷ MICS3 (2008) pp.93-94; OECD (2014), Gender, Institutions and Development Database, <http://stats.oecd.org>

⁵⁸ Global Arab Network (n.d.)

⁵⁹ UNDP (2010)

⁶⁰ UNFPA (2013)

There is evidence to suggest that the Syrian Arab republic is a country of low concern in relation to **missing women** but the situation is improving.

More

Under-five mortality rates are slightly higher for boys than for girls.⁶² Gender-disaggregated data are not available for childhood malnutrition or immunisation rates, and the latter vary considerably in coverage: 43% to 82% depending on vaccine.⁶³

Gross primary and secondary school enrolment ratios (females as % of males) preceding the start of the current conflict were approximately equal (primary GER at 99%, secondary at 100%).⁶⁴ Parents are in fact legally compelled to send their children to school (which is free), and if daughters do not attend school, their parents can face punishment.⁶⁵ However, in some rural areas, girls' attendance rates remain low, partly as a result of parental prejudice against girls' education, but also as a result of security concerns, when parents are reluctant to allow their daughters to travel long distances to attend school.

Since the conflict began in 2011, approximately 3 million children from have been forced to leave school, and 1 in 5 schools can no longer been used either because they have been damaged or destroyed, or are sheltering internally displaced persons.⁶⁶

4. Restricted resources and assets

The default marital property regime is separation of property and the original owner has the legal right to administer property during marriage. In addition, there are no legal restrictions on women's **access to land**.⁶⁷ Overall though, women's land ownership remains very low: in 2006, JICA reported that just 5.3% of agricultural land was owned by women, and that land holdings owned by women were on average smaller than those owned by men.⁶⁸ In addition, women who own **non-land assets** or businesses may hand day-to-day control over the male relatives, as a result of social pressure or because they do not feel confident enough to manage assets themselves.⁶⁹

The law does not appear to make any distinction between men and women's **access to financial services**, including bank loans and credit.⁷⁰ As such, women are not required to have the consent of their fathers or husbands in order to apply for or obtain loans, although married women do need their husband's permission to work, and hence, to enter into economic contracts and activities (PSL, Art. 73).⁷¹ It is reportedly very difficult,

⁶¹ CIA (2013)

⁶² UNICEF (2014) p.34

⁶³ Idem, p.46

⁶⁴ UNICEF (2014) p.76

⁶⁵ JICA (2006) pp.11, 24

⁶⁶ UNICEF (2013); New York Times (2013)

⁶⁷ World Bank (2013)

⁶⁸ JICA (2006) p.32

⁶⁹ Kelly and Breslin (eds.) (2010) p.471

⁷⁰ World Bank (2013)

⁷¹ Kelly and Breslin (eds.) (2010) p.470; World Bank (2013)

however, for women in rural areas to obtain credit, as banks tend to require significant collateral.⁷² In response to this, the country's first micro finance scheme was started in 2008.⁷³ In addition, there are loan schemes that specifically target women, with the aim of increasing their economic participation.⁷⁴

5. Restricted civil liberties

Women in the Syrian Arab Republic face legal and social restrictions on their freedom of movement and **access to public space**. Although neither unmarried nor married adult women need their husbands' or fathers' permission to obtain a passport and travel abroad,⁷⁵ women are required to obtain written permission from the father of her children in order to leave the country with them.⁷⁶ Unmarried women do not, generally, live on their own, as this is considered dangerous and improper (although attitudes are beginning to change),⁷⁷ while married women must defer the choice of domicile to their husbands, who have decision-making power to this regard (PSL, Art. 66).⁷⁸ Women cannot confer citizenship to children born to non-Syrian fathers.⁷⁹ Such children cannot inherit property, or access free healthcare and education.⁸⁰ More broadly, the proliferation of military checkpoints, open fighting and on-going general insecurity has severely restricted movement in the Syrian Arab Republic.⁸¹

Freedom of expression, association and assembly are all heavily restricted in the Syrian Arab Republic.⁸² There is only one legal women's rights organisation in existence – the General Union of Syrian Women, affiliated to the ruling Ba'ath party.⁸³ There are also independent groups, such as the Syrian Women's League, which mainly work to improve women's overall legal and economic status, as well as provide practical assistance to victims of domestic violence, but they act clandestinely.⁸⁴ The government selectively enforced a 2011 decree allowing the formation of independent political parties, but only allowed pro-regime groups to form official parties, while opposition activists shied away from organizing parties, fearing retribution.⁸⁵ Demonstrations or any public gathering of more than three persons requires permission from the Ministry of Interior, and the latter routinely disapprove requests from nongovernment-affiliated groups.⁸⁶ The government has also continued to block efforts on the part of journalists to form a regional Arab media association and access to information is generally made difficult by both opposition and regime forces; as many as 28 journalists were killed in 2013 and many

⁷² Kelly and Breslin (eds.) (2010) p.473

⁷³ Idem

⁷⁴ UNICEF (2011) p.3

⁷⁵ World Bank (2013)

⁷⁶ Amnesty International (2013) p.4; Kelly and Breslin (eds.) (2010) p.473

⁷⁷ Kelly and Breslin (eds.) (2010) p.481

⁷⁸ World Bank (2013); UNICEF (2011) p.2

⁷⁹ Kelly and Breslin (eds.) (2010) p.462; CEDAW (2013) p.4

⁸⁰ Idem

⁸¹ Freedom House (2014)

⁸² Freedom House (2014); US Department of State (2012)

⁸³ Kelly and Breslin (eds.) (2010) pp.464, 477; UNICEF (2011) p.3

⁸⁴ Kelly and Breslin (eds.) (2010) p.464; UNICEF (2011) p.3

⁸⁵ US Department of State (2012)

⁸⁶ Idem

more kidnapped or arrested.⁸⁷ Private newspapers have been allowed to operate since 2001, and it is reported that these do on occasion discuss gender issues such as domestic violence or honour killings.⁸⁸

There are no **quotas** at the national or sub-national level to promote women's political participation. Women have, however, had the same voting rights as men in the Syrian Arab Republic since 1949, and the same right to stand for election since 1953.⁸⁹ There are some prominent female political figures in the Syrian Arab Republic, including one of the two vice presidents. In addition, women make up 12.4% of members of the People's Assembly (31 out of 250).⁹⁰ But overall, women remain underrepresented in politics and government, and there are few women in decision-making positions in the judiciary or the executive.⁹¹

More

The 2010 Labour Law (Art. 75) mandates equal remuneration for men and women for **work** of equal value, but there is no law mandating non-discrimination based on gender in hiring.⁹² According to the Labour Law, after 6 consecutive months of service to the same employer, pregnant women are entitled up paid **maternity leave**, to be financed by the employer. The length of maternity leaves depends on whether or not they already have other children, and varies from 120 for the first childbirth to 75 days for the third childbirth (Art. 121).⁹³ Married women may only be able to work outside the home if they have their husband's permission to do so (PSL, Art. 73), and all women are barred from working at night (except in certain professions, e.g. healthcare) and in professions deemed injurious to their health or morals.⁹⁴ Many women are either employed in agriculture or the informal section, meaning that they receive no regular salary and are not protected by employment legislation or social security benefits.⁹⁵ The formal labour force participation rate for women in the Syrian Arab Republic is only 13%, despite high literacy and school enrolment rates.⁹⁶

⁸⁷ Freedom House (2014)

⁸⁸ Kelly and Breslin (eds.) (2010) p.477

⁸⁹ Kelly and Breslin (eds.) (2010) p.459; UNICEF (2011) p.3

⁹⁰ UNICEF (2011) p.3; Freedom House (2014)

⁹¹ Freedom House (2014)

⁹² World Bank (2013)

⁹³ World Bank (2013)

⁹⁴ Kelly and Breslin (eds.) (2010) p.472

⁹⁵ Idem, p.473

⁹⁶ World Bank (n.d.) Data: Labor participation rate, female

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