



How is Violence Against Women Written into Syrian Laws and Society?

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Syrians for Truth and Justice, through the support of the Canadian Government and the Canada Fund for Local Initiatives, conducted over 120 interviews with Syrians who were attempting to file cases before Syrian courts. Working with a network of field researchers in Damascus, Southern Syria, Northeastern Syria, and Northwestern Syria, we interviewed Syrians about the legal struggles they faced to better understand the challenges of the Syrian legal system and the hurdles average Syrians must overcome to achieve justice.

Global legal experts analyzed and commented on the challenges Syrians raised in their testimonies and their analyses, along with testimonials, are published in a series of five reports covering the subjects of:

1. Statelessness and the deprivation of citizenship
2. Violations to housing, land, and property rights
3. Violence against women
4. The issuance of death certificates for people missing or killed during the conflict
5. Family rights over neglected or orphaned children

We hope these reports will shed light on the challenges Syrians face daily to achieve fundamental human rights like housing, safety, and dignity, and that the recommendations included within will inspire Syrian and global communities to work together to create a justice system accessible and accountable to every Syrian.

Executive Summary

Mona, 17, from the Syrian province of al-Qunaitra, was forced into marriage when she was only 15. The man who her father forced her to marry was infertile, thirteen years older than her, and had three previous failed marriages. She knew none of this before she married him. Mona recounted to STJ:

“My father said that marriage is to protect women, but he forced me into that marriage for nothing else but to take my dowry. My father did not tell me the truth about my ex-husband’s social and personal status before marriage. My marriage lasted only six months, during which I suffered physical and psychological violence from my husband, who then expelled me from his home after forcibly taking the money and the gold I had. Moreover, my ex-husband refused to divorce me unless I gave up all my legal rights before the court.”

The absence of legal protection for victims – especially women – coupled with a fear of social stigmatization that stops battered wives from filing complaints against their husbands means that stories like Mona’s are occurring throughout Syria. Syrian law considers crimes of domestic abuse as equivalent to those of “hitting and harming” stipulated for in Article 540 et seq. of the Syrian Penal Code. Furthermore, Article 305 of the Syrian Personal Status Law allows a husband to, under certain conditions, “slightly beat his wife”¹ and states that in the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, based on Article 305 of the Syrian Personal Status Law, generally, the rules of Hanafi jurisprudence (*fiqh*) apply.²

In turn, the Syrian Penal Code has been criticized for its inclusion of what Islamic jurists have termed “honor killings”,³ under the section of “Crimes Against Morality and Public Morals”. Prior to its amendment in 2009 and 2011, Article 548 of the Syrian Penal Code waived the punishment for a man tried with the murder of a female family member in a case provoked by “illegitimate sex acts”, granting the killer a complete “exemption of penalty” as the excuse was considered pardonable. Although this “mitigating circumstances excuse” for honor killings persisted in the article’s later amendment, it was later adjusted to include a minimum sentence of two years, then five years. On 17 March 2020, President Bashar al-Assad issued Legislative Decree No. 2,

¹Originally issued by Qadri Basha, an Egyptian jurist of Turkish origin, in a book entitled “Legal Provisions in the Personal Status”. Basha contributed to the Hanafi school of Islamic jurisprudence (*Fiqh*).

² For more info, please see: “On the Syrian Personal Status Law”, Syrian Women for Democracy, 25 March 2020, <http://cswwsy.org/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D8%A7%D9%84%D8%A3%D8%AD%D9%88%D8%A7%D9%84-%D8%A7%D9%84%D8%B4%D8%AE%D8%B5%D9%8A%D8%A9-%D8%A7%D9%84%D8%B3%D9%88%D8%B1%D9%8A%D8%A9-%D8%A8%D9%8A%D9%86-%D8%A7%D9%84/> (last accessed: 20 November 2021).

³ For more info, please see: “General Penal Laws”, the Syrian Parliament website, <http://www.parliament.gov.sy/arabic/index.php?node=57151&> (last accessed: 20 November 2021).

abolishing Article 548 of the Penal Code, and with it the legal differentiation between “honor killings” and other murders.

The ongoing Syrian conflict continues to profoundly affect the lives of women, bolstering repressive practices such as “child marriage”. The Syrian Constitution of 2012 makes no mention of “child marriage”, but states in Article 20: “The state shall protect and encourage marriage and shall work on removing material and social obstacles that hinder it. The state shall also protect maternity and childhood, take care of young children and youth and provide the suitable conditions for the development of their talents.”

Introduction

Pervasive injustice follows Syrian women throughout their lives. Cultural norms and repressive religious discourse contribute to their violation and discrimination by enshrining male guardianship, which reinforces the power and control men have over women's lives and choices, at times fueling violence. At the same time, misogynistic legal, political, and social systems cement men's control over employment opportunities and thus economic resources, limiting emancipatory potential and egalitarian standing.

Male authority in the cases and communities discussed in this report stems from cultural, societal, and religious conventions which shape systems that turn a blind eye to, or worse, permit violence against women. A woman may not only be the victim of her violent husband, but also suffer at the hands of her father, brother, and other male relatives, including those in the extended family like grandfathers, uncles, and brothers-in-law. Violence against women is often also perpetuated by other women, who support men's authority and condone its abuses. In many of these cases, violence occurs within the domestic space; however, discriminatory laws and institutions frequently protect the perpetrators and disenfranchise the victims when that violence enters the public sphere in police stations, courts, and government offices. As a result, Syrian women experiencing violence at home are left with few laws and institutions to turn to while searching for accountability or reprieve.

This report is dedicated to highlighting instances of violence against women which are often left undiscussed in the Syrian context, as well as exploring the legal barriers victims of violence confront when they attempt to seek justice.

Methodology

This paper draws on the testimonies of 20 Syrian women who disclosed their experience of male-inflicted violence at the hands of their husbands or male relatives to field researchers with Syrians for Truth and Justice (STJ) between October 2020 and February 2021. While some attempted to

seek justice through Syrian courts, others did not for fear of societal stigmatization and familial blame.

STJ also spoke to both male and female activists campaigning against violence against women present in the areas where the incidents this paper explores occurred. Their identities have been concealed for their safety. This paper does not include the testimonies of the relatives of the victims, or from the perpetrators themselves, especially in those cases of “honor killings”, because these individuals refused to speak to STJ.

By closely studying the Syrian laws applicable in the 20 cases discussed in this report, and comparing them to the norms of international law, STJ’s legal team identified several legal loopholes benefitting the perpetrators of violence against women. This report will describe these loopholes, and while doing so, share the experiences of several Syrian women who have confronted violence, and often, injustice within Syrian courts. By defining these loopholes, we hope to begin the conversation of how to close them because, so long as these legal outlets remain, and the culture of impunity persists, women in Syria will continue to confront escalating violence.

Difficulties and Obstacles

Among the challenges STJ researchers faced while compiling this paper were the overall security conditions in the country, as well as the restrictions imposed by the Covid-19 pandemic.

However, the biggest challenge faced by our team of researchers was convincing female victims to use legal means to punish the perpetrators and free themselves from violence. This originates in a fear of society and retaliation from their relatives, as well as a deep mistrust of the effectiveness of using legal means. For some women, seeking redress through the courts would be not only ineffective but harmful, resulting in increased risk of violence from perpetrators for speaking against them.

Forms of Violence Against Women

Domestic violence against women in Syrian society takes many diverse forms, the most prominent of which is that inflicted by husband against wife. Paternal violence against children, especially girls, and a brother’s violence against his sisters are also widespread. In the varied cases we discuss below, Syrian laws enshrine and uphold male superiority, failing to hold perpetrators of violence accountable.

“Honor” Killings

Violence against women sometimes takes the form of a crime called an “honor killing”. While “honor killings” are often commonly understood as crimes which are committed against a woman caught having an affair, they frequently occur during other scenarios, including a woman’s legal

marriage to a man without having first sought the consent of her family, marrying a person of a different religion or sect, or beginning a relationship with a man.

The very name “honor killings” implies a justificatory explanation for the violent and unjust act, offering a sympathetic reasoning for the crime and constituting the first step towards impunity. The phenomenon of “honor killings” is unique in that society sides with the killer, and at times even encourages him.

A. Marriage Without Familial Consent

In early 2021, Esther and her husband were killed by her relative, simply for having married without the prior consent of her family. Esther had been married three years, and was pregnant, at the time of her murder.

Esther was from the city of Afrin, in the north of the Aleppo Governorate. In 2018, Esther married Khaled, 35, as his second wife, without the knowledge of her family. She moved to live with Khaled in the village of Kurin, located in the Arihah district in southern Idlib. An activist working in the area where Esther and Khaled were murdered told STJ:

“On the evening of 12 January 2021, a relative of Esther – believed to be her brother – broke into her home and shot her and her husband with a pistol. They died instantly in front of Khaled's first wife, who was living in the same house. After the killer escaped, the first wife informed her husband's family of the crime.”

The activist also confirmed that Esther and her husband are survived by their two-year-old daughter, and that the fetus in Esther's womb died in the incident.

A similar crime was committed in the province of al-Qunaitra, where a young woman was arrested, then murdered upon her release after she fled home to marry a man she fell in love with. The victim's friend told STJ:

“My friend was arrested at a checkpoint of the Syrian Army in Damascus suburb in 2014 while on her way to marry the man that she loves, fleeing her family's home after they rejected their marriage. The reason for her arrest or the charges against her were unknown. My friend was held for two years, before she was released in 2016.”

After her release, she went to a local dignitary in the area, who spoke to her family to allow her return home. Her family promised not to hurt her; however, days later, she was murdered. Her friend spoke with one of STJ's field researchers afterwards:

“Her brothers and father strangled her to death while she slept. The girl’s family accused the man she loved of the crime. Despite the police’s investigations into the crime, the perpetrators are still at large.”

Another “honor killing” occurred in rural southern Daraa, where a 23-year-old woman was killed by her husband’s relatives. The perpetrators justified their crime by saying that the victim took advantage of her husband’s absence – having taken refuge in Europe – to have an affair with another man in 2019.

A friend of the victim talked to STJ about the incident in January 2021, saying:

“The victim’s mother-in-law saw a man jumping on the roof of the victim’s home at night. The mother called her son and told him what she saw. Immediately, she went with relatives to the victim’s home to find her sleeping with her children. The victim was imprisoned in her house for a week before being found murdered.”

The friend confirmed that the victim’s family holds her husband’s family responsible for the murder, but they have no evidence. The police have not investigated the incident and blamed her death on natural causes.

The cases discussed above are not the only honor killings to occur in Syria. STJ has documented dozens of honor killings in multiple reports during the last few years of the Syrian conflict.⁴ Like the cases included in this report, few of the “honor killings” we have investigated resulted in the jailing or punishment of the perpetrators.

B. “Honor” Killings and the Law

The term “honor killing” to describe the murder of a woman or girl by male family members does not appear in Syrian law. Instead, the law terms such killings “crimes against morality and public morals”. Article 548 of the Syrian Penal Code (before its amendment in 2009 and 2011),⁵ waived punishment for a man found to have killed a female family member in a case provoked by “illegitimate sex acts”. In such cases, the killer benefited from a complete “exemption of penalty”, as the excuse was considered pardonable. While the article that replaced this still allows for mitigated punishment for “honor killings”, it also requires a sentence of at least five years.

⁴ “Ten ‘Honor Killings’ in al-Hasakah and As Suwayda Since Early 2019”, STJ, 19 August 2019, <https://stj-sy.org/en/ten-honor-killings-in-al-hasakah-and-as-suwayda-since-early-2019/> (last accessed: 08 November 2021); “Syria: Girl, Two Women Murdered in Alleged ‘Honor Killing’”, STJ, 13 July 2019, <https://stj-sy.org/en/syria-girl-two-women-murdered-in-alleged-honor-killing/> (last accessed: 20 November 2021);

“Figures Show a Rise in Homicides Against Women in Idlib and Hama”, STJ, 5 January 2020, <https://stj-sy.org/en/figures-show-a-rise-in-homicides-against-women-in-idlib-and-hama/> (last accessed: 20 November 2021).

⁵ For more info, please see: “General Penal Laws”, the Syrian Parliament, <http://www.parliament.gov.sy/arabic/index.php?node=57151&> (last accessed: 20 November 2021).

Notably, the distinction between the entitlements afforded to men and not women are explicit in Article 548 of the Syrian Penal Code and similar articles, because the articles do not note that women would be provided with same exemption of penalty if they walk in on their husband engaging in illegitimate sex acts and, in fact, they have not been provided with the same exemption of penalty in real cases. One notable example is the case of a woman who killed her husband after she walked in while he was engaged in an illegitimate sex act and was then charged with the crime of intentional murder.

On 17 March 2020, Syrian President Bashar al-Assad issued Legislative Decree No. 2, which abolished Article 548 of the Penal Code, making it so that legally “honor killings” are handled like any other crime. However, the law left the decision on such crimes to the discretion of the judges and courts, with Article 192 of the Syrian Penal Code providing for a reduction of sentences if the judge finds that the motive was “honorable”.

Furthermore, Article 242 of the Syrian Penal Code allows the judge to reduce the punishment for both men and women in cases of murders committed in the event of anger or motivated by an illegal act provoked by the victim.

Domestic Violence

The prevalence of domestic violence shatters the widely held assumption that the home is one of the safest spaces for a human being. The term “domestic violence” encapsulates not only physical, but also psychological, sexual, and financial abuse. Reportedly, domestic violence cases have increased significantly during the Covid-19 pandemic.

A. A Successful Divorce After a Violent Marriage

Hiba Muhammad, 23, divorced her husband after being subjected to continued abuse from him during the two years of their marriage. Hiba is now living with her infant daughter in a camp for widowed women in Idlib.

Hiba is from the province of Latakia. She married in 2018 and moved to Idlib with her husband. Hiba recounted to STJ the violence she underwent, saying:

“I suffered a lot from the first days of my marriage. My husband used to strictly forbid me from leaving the house for whatever reason. He even tried to force me to wear a veil, which I could not bear on my face.”

Problems between Hiba and her husband were exacerbated after her family immigrated to Turkey in 2019. Hiba added:

“Problems between us escalated and he started to beat me even though I was pregnant. He used to hit me on the face and on my whole body with his hands. He once whipped me

with a water pipe, leaving visible marks on my body. I endured the beatings, hoping that my husband would treat me better after I gave birth to our daughter.”

Instead of improving as she hoped, Hiba’ situation worsened after she gave birth. In addition to the physical and verbal abuse, Hiba’s husband locked her inside of their home and prevented her from contacting her family:

“My husband used to leave the house and lock its door with the only key we had, leaving me alone within its four walls. He also used to insult me and my parents, saying that they did not raise and educate me well and that Latakian society is degenerate. He also used to shout at me saying that I must not raise my daughter the way my parents raised me. His words used to hurt me; I felt like he saw me as a whore.”

Eventually, in mid-2020, Hiba fled her husband’s house with their daughter to the widows’ camps in the town of Sarmadā, located in rural Idlib.

“I managed to pick the lock of the house and flee. I filed for divorce in a court of the Hay’at Tahrir al-Sham (HTS) in Idlib and told the judge my whole story. I insisted on divorce and after eight court sessions, extended over three months, the judge decided to separate us. I obtained custody of my daughter until she attained the age of ten.”

B. A Beating Which Resulted in an Abortion

Mariam Ahmed, 31, lives with her son, 11, in her family’s home in Qamishli/Qamishlo. Mariam married in 2004 when she was only 15 but left her husband in 2013. During the ten years of her marriage, she underwent several forms of abuse by her husband. Mariam has not officially separated from her husband yet, as he refuses to divorce her. Her husband also does not cover the living and education costs of their son, who has suffered psychological harm due to witnessing the violent relationship of his parents.

Mariam talked to STJ in February 2021, saying:

“My father forced me to marry my cousin, and it was the beginning of my ongoing suffering. It was a big mistake to get married at a very young age to a person I do not love. My marriage lasted ten years, through which I underwent insults, violence, and mistreatment at the hands of my husband and his family. The worst of it was that I was often deprived of food and water.”

Mariam lived with her husband in his family’s house in a village in rural Qamishli/Qamishlo. Here she was deprived of many of her rights, as her husband would restrict her movements, control her relationships with family and friends, as well as the way she dressed. His actions frequently led her to consider leaving him.

“I fled my marital home to my family’ several times in the first years of my marriage and asked for divorce each time. However, relatives and notables from the two families used to mediate and solve the dispute after vows from my husband to treat me better. Thus, I used to return to him, yet nothing changed. I am still suffering the consequences of this failed marriage.”

Five years after her marriage, Mariam gave birth to her only child. She thought that would make her marital life better, but it was just the opposite. Mariam added:

“In 2011, two years after the birth of my child, I lost a pregnancy at the eighth month due to a severe beating from my husband. Fatherhood did not change him, on the contrary, he became more violent. In 2013, I left my husband’s home to my family’s, and asked for divorce. Then, my husband came to my family’s home and attacked me there, hitting my head against the window glass. I bled so much that I passed out. I needed a year of medical treatments before I recovered.”

Since 2013, Mariam has been living with her 11-year-old son in her family’s home in Qamishli/Qamishlo. While seven years has passed since Mariam and her husband separated, her husband has refused to finalize their divorce and set her free, despite the pleas of family elders.

C. Unilateral Divorces

Riham Awdah, 40, from the province of As Suwayda, a mother of three children, was shocked to receive news of her husband’s intent to divorce her. After twenty years of marriage, Riham’s husband, who is an officer in the Syrian Army, filed a divorce case at the Sharia Court (a doctrinal court for the Druze community) in As Suwayda in October 2020.⁶

Riham told STJ of the violence and torture she endured during her marriage, criticizing the injustice enshrined in Syrian law which gave her husband the right to unilateral divorce:

“Since the beginning of my marriage until now, I have often been subjected to violence by my husband, who would not hesitate to beat me and his children for trivial reasons. He used to always say angrily ‘I will step on you with my military boots, see?’.”

Riham has worked as a civil servant for more than twenty years, sharing her income with her husband. Although Riham took loans using her salary and participated equally with her husband in the purchasing of the land on which her marital home was built, as well as in its construction and furnishing, her husband continues to deprive her of her share of ownership. Riham said:

⁶ It is the only Sharia court in Syria for the Druze community, based on Article 307 of the Syrian Personal Status Law.

“I agreed with my husband to register our property in his name. However, after divorce he denied me my share, although he previously admitted before several people that I have the right to half of the house we lived in, since I paid half of its cost from my salary.”

In November 2020, the dispute over the ownership of their marital home escalated, which necessitated the intervention of clerics and relatives to help resolve it. Nonetheless, Riham’s husband used his military power to forcibly take Riham’s share in their property.

“My husband and his escort attacked the home where I was staying with my children, using his military influence to intimidate us. He even sent threats to my relatives, who tried to intervene to resolve the dispute. My husband promised many times to do me justice, but it was just nonsense.”

Article 88 of the Personal Status Law states in its first paragraph: “If a divorce [or *Khula*] request is made to the court, the judge is to postpone the trial for one month in the hope of reconciliation.” The second paragraph of the same Article states: “If the husband or both parties still insist on divorce/*mukhala’ah* after the period given has elapsed, the judge must summon the two sides, listen to their disagreement and try to solve it with the help of relatives and any other who the judge deems fit to help continue their marital life. The third paragraph of the same Article states: “If these endeavors do not work, the judge allows the registration of divorce/*mukhala’ah* and considers it effective from the date of its occurrence.”

D. Domestic Violence and Syrian Law

In the Syrian Penal Code, while there are several articles that prohibit and criminalize beating in general, domestic violence is not explicitly mentioned. Article 540 states that whoever beats, injures, or harms a person, and the injuries did not result in the victim missing work for more than ten days, will be imprisoned for a maximum of six months, or pay a fine. The punishment for the crime increases with the severity of the victim’s injuries. Article 541 states that if the victim misses work for more than ten days because of their injuries, the offender can be imprisoned for a maximum of one year and/or pay a fine of up to one hundred pounds. Article 542 notes that if the victim’s injuries result in their missing work for more than twenty days, the offender will be imprisoned between three months to three years and must pay a fine of one hundred pounds. Article 544 notes that the same consequences are carried out against any offender who, knowing a woman is pregnant, causes her to miscarry.

However, despite these articles criminalizing beating, there are no special articles which punish domestic violence, which is a notable gap because it is often women who suffer from domestic violence. Similarly, the nature of domestic violence as shielded within the privacy of the home, often affects whether women can or cannot seek justices entitled to them by law as victims of beating, injury, or harm. Female victims of marital violence do not usually file complaints against their husbands for several reasons, including the fear of social stigma, and those who do are often

forced by their relatives to terminate the case and thus forfeit their right to compensation. Not only the woman's family, but often the men implementing the law, may disdain, mock, or look down upon a woman who turns to the law if she is beaten by her husband, and thereby make "family affairs" public. In these cases, social customs and traditions not only influence the law, but can supersede it.

Moreover, the Syrian Personal Status Law allows the husband to hit his wife "lightly"⁷. Article 305 states: "In the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, based on Article 305 of the Syrian Personal Status Law, generally, the rules of Hanafi jurisprudence (fiqh) apply." In the same vein, Article 209 of Qadri Basha's "Legal Provisions in the Personal Status" says: "A husband should be allowed to lightly beat his wife if she has committed a sin that is not included in the *hudud*⁸(footnote explaining what this is) offences. However, it is not permissible for a husband to beat his wife severely even if he is right."

While Syrian law has thus far failed to address domestic violence, other Arab countries such as Tunisia have made significant progress. On 26 July 2017, the Tunisian Parliament issued a law protecting women from violence committed against them from their husbands and male relatives, as well as increasing protection for survivors and holding perpetrators accountable.

Child Marriage

The now decade-long Syrian conflict has exacerbated preexisting social and political issues. One of the most pressing is escalating and detrimental practice of "child marriage." According to information obtained by STJ, the Syrian war has caused a substantial increase in child marriages.⁹ As socio-economic conditions worsened during the war, and many families were left without their traditional breadwinners because of violence and detention, families increasingly look to marry their minor girls to alleviate themselves of the added expenses. According to UNICEF, school enrollment in Syria before the war was 90%, yet, since the beginning of the war, school enrollment has plummeted to 50%. Poverty is the primary reason, with families finding work for their sons and husbands for their daughters.¹⁰

⁷ For more info, please see: "On the Syrian Personal Status Law", Syrian Women for Democracy, 25 March 2020, <http://cswdsy.org/%D9%82%D9%88%D8%A7%D9%86%D9%8A%D9%86-%D8%A7%D9%84%D8%A3%D8%AD%D9%88%D8%A7%D9%84-%D8%A7%D9%84%D8%B4%D8%AE%D8%B5%D9%8A%D8%A9-%D8%A7%D9%84%D8%B3%D9%88%D8%B1%D9%8A%D8%A9-%D8%A8%D9%8A%D9%86-%D8%A7%D9%84/> (last accessed: 20 November 2021).

⁸ *Hudud* is specific to Islamic law. They are violations which are considered criminal offenses which would require public intervention in the form of prosecution and arrest.

⁹ "Early Marriage Hits High Rates in some Areas of Syria", STJ, 17 September 2020, <https://stj-sy.org/en/early-marriage-hits-high-rates-in-some-areas-of-syria/> (last accessed: 20 November 2021).

¹⁰ An article by Heiden Holderson, UNICEF website, <https://www.unicef.org/> (last accessed: 20 November 2021)

Many of the girls who marry as children are married without their knowledge or consent, frequently for their families' financial gain. Premature marriages deprive girls of their right to choose a suitable spouse and results, in most cases, in divorce due to the inability of both parties to fulfill their marital responsibilities. Furthermore, early marriages have devastating consequences for girls' health, with sometimes fatal complications resulting from child pregnancy and childbirth.

Early marriage occurs in most societies around the world, albeit at different rates. We can define child marriage as any marriage where at least one of the parties is under 18 years of age. The "child" is defined by the Convention on the Rights of the Child of 1989 as: "A person below the age of 18 unless the relevant laws recognize an earlier age of majority." Similarly, the Syrian Juvenile Delinquents Act No. 18 of 1974 defines the "Juvenile" as "Any male or female person under 18 years of age".

A. She Married and Divorced Before Reaching Adulthood

Biritan, 18, a Kurdish girl from Qamishli, married in 2018 when she was just 15 years old. During her marriage, which lasted less than two years, Biritan was subjected to physical and psychological abuse by her husband and his family. However, Biritan is still registered as married in the civil records because her husband has not completed the legal divorce/ *mukhala'ah* procedures, and she cannot afford to hire herself a lawyer.

On December 2020, Biritan recounted to STJ her marital experience, saying:

"My husband was constantly cheating on me and when I once disputed this, he beat me severely. I fled my marital home to my family's three times during my marriage, but I used to return to my husband. I prefer to endure his ill-treatment instead of staying in my family's home, since I do not have a provider. My father died when I was three and I have two younger brothers living on the assistance of generous people."

Although Biritan's marriage ended in a mutually consented divorce, her husband has not completed the legal procedures to register the dissolution officially. Therefore, Biritan is still registered under her husband's name in the Civil Registry and thus in his family booklet. Biritan added:

"My husband divorced me when I fled his home for the third time in June 2020. However, I am still registered as married. I do not have the capacity to pay for completing the transaction of the registration of my divorce. In addition to lawyer's fees, you have to pay bribes for every procedure, no matter how simple it is, and my family's financial situation is dire."

B. What Does the Syrian Law Say?

Article 20 of the Syrian Constitution of 2012 states: "The state shall protect and encourage marriage and shall work on removing material and social obstacles that hinder it. The state shall

also protect maternity and childhood, take care of young children and youth and provide the suitable conditions for the development of their talents.” The constitution does not contain any other mention of child marriage.

The amended Syrian Personal Status Law No.59 of 1953 stipulates in its Article 16: “Eligibility for marriage is reached at the age of 18 for a boy and a girl.” Although this may contribute to removing the legal cover for the marriage of underage girls, a Sharia judge may marry off a girl or a boy under the age of 18 if he determines they are eligible for marriage. This is according to article 18 of the law, which states: “If the female or male adolescents claim hitting puberty after the completion of 15 years of age and they request to be married, the Sharia judge can authorize the marriage, in case he sees that they are truthful about their claim, their bodies’ growth would make it possible for them to get married, and that they know about marital rights.” In other words, the actual minimum age of marriage is 15 in the Syrian law.

In 1963 the United Nations released the Convention on Consent to Marriage, the Minimum Age for Marriage, and Registration of Marriages which became effective in 1964. Article 1 of this Convention states: “1. No marriage shall be legally entered into without the full and free consent of both parties...” Article 2 of the same Convention states: “Parties to the present Convention shall take legislative action to specify a minimum age for marriage. No marriage shall be legally entered into by any person under this age, except where a competent authority has granted a dispensation as to age, for serious reasons, in the interest of the intending spouses.”¹¹

Child marriage is one of the most common forms of child abuse and exploitation in the world and is considered a form of forced marriage, given that one and/or both parties have not expressed full, free, and informed consent. Moreover, early marriage is a form of violence against girls, profoundly undermining the dignity of the girl as a human being and cementing women’s inferior status in society. Amid widespread insecurity and dire economic conditions that the Syrian people are experiencing in both regime and opposition areas, there is no sign of an end to child marriage.

Early marriage occurs frequently in camps housing the displaced inside and outside Syria. Families often choose to marry off their girls to save them from rape, or due to economic pressures. A 2016 United Nations Population Fund (UNFPA) report, “More than Numbers”, found that “one in four registered marriages of a girl under the age of 18 in Jordan” and that child marriage among Syrians in Jordan “increased from 25% in 2013 to 31%” in the first quarter of 2014. While some marriages are registered, many Syrian marriages in Jordan are not. Without legal registration, girls are refused the minimal protection afforded by Jordanian judges who may ask whether the marriage is in the girl’s interest. The same report also found that “girls who marry before 18 are more likely to experience domestic violence than their peers who marry later.”¹²

¹¹ It is worth noting that only 16 countries have signed this agreement.

¹² “More than Numbers”, United Nations Population Fund (UNFPA), Syria Regional Response Hub, 2016, <https://www.unfpa.org/publications/more-numbers> (last accessed: 20 November 2021).

Depriving Mothers Custody of Their Children

Currently, the Syrian law is used to deprive mothers' custody of their children by giving fathers the first right to custody and making it difficult for women who remarry to retain or receive custody over their children from a previous marriage. Article 139 of the Syrian Personal Status Law stipulates that "The right of custody is granted to the father, then her mother. If both are unable to care for the child, the right is granted to the father's mother; and if she is unable, to the child's sister, etc." If the mother marries a person who is not the child's *mahram* [marriageable kin], then the mother forfeits custody rights to the child. However, if the woman marries a *mahram* relative of this child, then the mother's right of custody remains. By the time the child reaches 15, the court may grant custody based on the child's wishes.

A. Children Taken from Their Mothers

"If she disobeys, drag her by her hair," Lamya's grandfather once told her brother, who is two years her senior. Throughout her childhood, Lamya's grandfather encouraged her brother to exercise his patriarchal power, and to make Lamya know that her fate, like that of all women in the family, lies in the hands of her male relatives.

Lamya has been living in her grandfather's house in Ras al-Ayn/Serê Kaniyê since she was three, after she was taken from her mother. Her father died four months before her birth. Now 14 years old, Lamya told STJ:

"My mother insisted on staying with us in my grandfather's home after my father's death despite the physical and psychological violence she underwent. My grandfather then asked her to marry my uncle in return for her staying in his home, citing that the Sharia and societal norms do not accept her stay without a *mahram* [marriageable kin]. However, my mother refused to marry, so my grandfather expelled her and thus deprived us from her love and tenderness."

Lamya's mother sued for custody and won the case, but despite this was still deprived of custody of her children. Lamya added:

"I was too young to remember what happened at the time. I learned later that my uncles and grandfather attacked the home of my mother's family to take me and my brother. The dispute between the two families then escalated, which prompted my mother to give up custody to avoid bloodshed. In return, my mother negotiated the rights to see us twice a week, to which my grandfather agreed."

Lamya told STJ that seeing the hate and oppression from her father's family towards her mother resulted in her suffering severe psychological damage. Lamya explained:

“I have not received love and respect in my grandfather’s home because of the beliefs my male relatives hold about girls. They think that women and girls must be oppressed, since they may bring shame on the family. Nevertheless, everybody in the family likes my brother and spoils him and encourages him to practice male guardianship over me and my mother.”

Lamya’s father’s family forced her to drop school after they learned that her mother was coming to see her there:

“When I was in the seventh grade, my grandmother heard from my cousin, who used to attend my school, that my mother was coming to see me at school. For this, my grandmother slapped me hard in the face and prevented me from going to school or even leaving the house alone, claiming that she fears for me. I feel like I am in prison.”

B. A Mother Commits Suicide After Being Denied Her Children

Amal, 33, a mother to four children, used to work as a teacher in a makeshift camp in rural Idlib. Amal committed suicide by drug overdose in September 2020 after being kept from her children after her divorce, which she sought because of spousal violence.

A female colleague of the victim confirmed to STJ field researchers that Amal had been subjected to violence from her husband several times during the last two months preceding her divorce and later suicide.

“Amal came to the school with bruises on her face four times. Her husband used to beat her under the pretext of his discontent with her work at the camp school, although it is only 300m away from their tent. He claimed that her work at school made her fall short in her duties towards her children.”

A neighbor of Amal’s tent stated that she heard Amal crying many times after being beaten by her husband, mainly in July and August of 2020. She said:

“Amal’s husband used to threaten her with divorce if she continued to work at school. Their disputes exacerbated in August and the violence of Amal’s husband increased to the extent of making her face bleed. That prompted their neighbors many times to intervene to save Amal.”

Amal got divorced in late August 2020. Neighbors and relatives made several attempts to reconcile Amal and her husband, but the latter insisted on the divorce. Amal asked for the custody of her four children, but it was not granted to her because her father refused to keep the children in his home, whereas her husband’s family insisted on taking them. The pain of living apart from her children led Amal to threaten her family with her suicide if she did not get custody of them, which eventually came to pass:

“On the morning of 3 September 2020, we woke up to the screaming of the victim’s sister. We learned then that Amal had committed suicide by taking a toxic substance. That was later confirmed by Amal’s family and the competent security authorities as well.”

Although a divorce agreement usually first occurs orally between the two parties, it is only legalized after being registered in the Civil Registries in accordance with Syrian law. If the divorce is not recorded, the woman remains registered as married in the civil records - which prevents the woman from marrying again if she wants to. On the other hand, men are not affected if they do not register their divorce, as remaining married in the records will not prevent them from marrying again since the Syrian law allows polygamy. Some men do not register their divorce out of carelessness, or deliberately to spite their ex-wives and to further subjugate them.

Legally, women are allowed to file for divorce in Sharia courts. When the case is finalized, the woman’s name is changed from that of her husband’s to her own in the civil record, granting her freedom and the ability to marry again.¹³

How Syrian Laws Fail to Protect Women

The Syrian Constitution of 2021 states:

- **Article 20:** “The state shall protect and encourage marriage and shall work on removing material and social obstacles that hinder it. The state shall also protect maternity and childhood, take care of young children and youth and provide the suitable conditions for the development of their talents.”
- **Article 23:** “The state shall provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life, and the state shall work on removing the restrictions that prevent their development and participation in building society.”
- **Article 33:** “3. Citizens shall be equal in rights and duties without discrimination on the grounds of sex, origin (nationality? Place of origin?), language, religion or creed.”¹⁴

These general words on women’s rights in the Constitution, and the laws based on them, have failed to protect Syrian women from violence and injustice.

The maintenance of unjust laws against women is a contradiction to global norms inspired by morals and human values, and violates the [Convention on the Elimination of All Forms of Discrimination Against Women \(CEDAW\)](#), which states in its Article 2:

¹³ Article 31 of the Syrian Civil Code promulgated by Decree 26 of 2007 and its amendments.

¹⁴ The Syrian Constitution of 2012, the Syrian Parliament website, <http://parliament.gov.sy/arabic/index.php?node=5518&cat=423&> (last accessed: 20 November 2021).

Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:¹⁵

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g) To repeal all national penal provisions which constitute discrimination against women.¹⁶

Despite the fact that Syria has ratified this Convention, Syria made a reservation on Article 2, stated above, meaning it rejects the provisions stipulated in Article 2 and does not comply with them. Syria also created reservations on Article 2, 9, 15, 16, and 29 of the same convention¹⁷. Syrian laws also clearly contradict the [Declaration on the Elimination of Violence against Women](#) which states:

Article 3: “Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. These rights include, inter alia:

- a) The right to life;
- b) The right to equality;

¹⁵ Article 2 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> (last accessed: 20 November 2021).

¹⁶ Ibid.

¹⁷ To read the reservations made, as well as see the text of the full Convention, please visit the following source: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4#EndDec

- c) The right to liberty and security of person;
- d) The right to equal protection under the law;
- e) The right to be free from all forms of discrimination;
- f) The right to the highest standard attainable of physical and mental health;
- g) The right to just and favorable conditions of work;
- h) The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.

Article 4: “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women...”¹⁸

It is worth noting that the state is directly responsible and legally obligated to take all necessary measures to change the social and cultural patterns influencing the conduct of men and women and thus entrenching gender stereotypes to achieve non-discrimination and gender equality.¹⁹

Conclusion and Recommendations

In light of the above, we must take a broad view of violence against women to not only mean physical violence. It may include sexual, emotional, psychological, and financial abuse. Violence against women is not only exercised by individual males, but also by the society and the state through customs, traditions and laws that enshrine pejorative attitudes towards women.

Article 2 of the [Declaration on the Elimination of Violence against Women](#) states: “Violence against women shall be understood to encompass, but not be limited to, the following:

- a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
- b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;

¹⁸ Articles 3&4 of a Declaration on the Elimination of Violence against Women, adopted by the United Nations General Assembly in its resolution 48/104 of 20 December 1993, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ViolenceAgainstWomen.aspx> (last accessed: 20 November 2021).

¹⁹ Article 5 (a) of The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> (last accessed: 20 November 2021).

- c) Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”²⁰

Moreover, Syria’s refusal to adopt all of the articles of the CEDAW manifests in its unwillingness to take any effective steps towards putting an end to these violent acts or finding effective solutions to remedy historical injustices against women. The maintenance of the legal mechanisms for such immoral and inhumane practices underlines the state’s insistence on depriving women of their most basic rights and of dignity.

Women’s rights are human rights, and we see that women, especially young women, must be entitled to additional rights and protection. If a state refrains from ratifying the women rights-related conventions or refuses some of their provisions, it remains obligated to protect women and grant them their full rights in accordance with human rights treaties.

A state, by its the legislative, executive, and judicial authorities, should ensure the safety, protection and dignified life to all its citizens without any discrimination. That cannot be achieved without the establishment of the rule of law, which manifests in equality of rights and treatment between all members of society, regardless of sex, gender, or any other considerations. Hence, any exclusion or discrimination against a particular group in a state, and the allowance of exclusion and discrimination in its legal system, not only violates the rights of that group, but also considerably undermines the legitimacy of the state’s legislative, executive, and judicial authorities.

The process of drafting a new Syrian constitution, which we are witnessing now, must pave the way to the reformulation of many regressive laws, norms, and values to enact real and meaningful change not only at the political level, but most importantly at the societal level. The new constitution must not resemble its predecessors, mere political means to reinforce the power of the ruler with obscure reference to civil rights in unapplicable provisions. The new Syrian constitution will lack legitimacy if it does not respect women’s rights and clearly commit to lifting the entrenched injustice against them, preserving their dignity as human beings above all. We hope for a constitution in keeping with the spirit of the time, one which reflects the desires and hopes of all citizens.

Domestic violence is a global phenomenon – but in Syria it is far more pervasive, due to its role within a collective culture that takes male authority as granted. The problem of domestic violence is also exacerbated in times of war. In Syria, the ongoing war which involving severe hostilities, destructions, displacements, and a collapsing economy has had a major psychological impact on Syrians - resulting in increased domestic violence and a variety of repressive practices, mainly child

²⁰ Articles 3&4 of a Declaration on the Elimination of Violence against Women, adopted by the United Nations General Assembly in its resolution 48/104 of 20 December 1993, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ViolenceAgainstWomen.aspx> (last accessed: 20 November 2021).

marriage. Domestic violence, especially against women, is a deep-rooted social disease that must be addressed and remedied as soon as possible.

After the research conducted in this investigation, STJ recommends:

1. Finding a comprehensive political solution to the Syrian issue, through the United Nations, which ensures a successful completion of the political transition leading to democracy. It is also important for the women-related provisions in the Constitution to be written clearly and not open to interpretation.
2. Amending domestic laws related to the rights of women and children in line with the relevant international conventions.
3. Raising the marriage age in the Syrian Personal Status Law to a minimum of 18 years old, rather than the age of puberty which currently stands.
4. Criminalizing and imposing severe penalties on anyone involved in arranging a child marriage.
5. Updating the educational curricula to include teachings on human rights, women's rights, and children's rights to promote tolerance, respectful treatment of others, and non-violence.



Our team of researchers and volunteers at Syrians for Truth and Justice are dedicated to uncovering human rights violations in Syria. Believing that diversity has historically defined and benefitted the country, we work everyday to promote inclusivity and justice to ensure that all Syrians are represented, and their human rights secured.