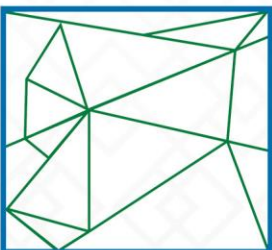


Christian Women's Status in Syrian Law





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How do discriminatory laws make Christian women the weakest link in the struggle for rights and equality?





"It took me four years to get a divorce although there were compelling reasons. The prolonged proceedings required by the spiritual court made me suffer a lot; my life was disrupted. I am not the only one, there are many women who lost or are losing years of their lives in vain in courtrooms.", Said Angela (a pseudonym), a Catholic Christian woman in her thirties residing in Damascus.

Angela described her suffering saying:

"I got married to a widower with two children. He and his son, who was only 15, used to always beat and insult me. Shortly after my marriage, my mother-in-law fell ill and moved to live with us. She was always complaining that I was not looking after her properly and was derelict in the household chores. Her allegations prompted my ex-husband to intensify his violence against me; he even forbade me to go to work and even to step out the door of the house. Moreover, my ex-husband refused to have children with me, ignoring my willingness to maternity. I never had any kind of care or attention during my marriage even in times of sickness. Once alone and sick, I made my irreversible decision to separate."

Divorce procedures in spiritual courts usually take many years. The court starts the proceedings by notifying the two parties. Then it holds periodic interrogation sessions for the parties in the presence of eyewitnesses. Afterward, the judge attempts to reconcile the couple. Finally, the judge decides desertion, annulment of the marriage, or divorce, according to his own discretion. Divorce in [Christianity](#) is governed by multiple and complex laws which differ from one sect to another. However, all Christian divorce laws ban unilateral divorce by the husband. The marriage can only be terminated by a decision from the spiritual court, upon the judge's (priest) discretion.

There are instances in which priests [exploit](#) divorce cases to extort the disputed parties and others in which the priests make unjust decisions for financial or personal reasons.

Divorce can be difficult if the husband refuses. This is why proceedings in the case of Angela took a long time; there were appeals and cassations and the court sessions were held once every two months. However, the Church granted Angela the divorce upon the reason of her husband's refusal to have kids with her.

"The judge did not consider all the violence I was subjected to. I fled the marital home with nothing and could not recover my jewelry, trousseau, or anything from the furniture and stuff I or my family had bought", Angela lamented.

▪ Sectarian Laws Complicate Legal Procedures

In their struggle to gain their very rights, Christian women are hindered by discriminatory laws that complicate and prolong pre-trial and trial proceedings. This puts them to suffer and affects their lives.





A [research](#) by the Syrian Women League (SWL) confirmed that “Personal status laws of all sects have discriminatory provisions against women, which undermines women's empowerment in all areas of life; the social, political, economic and cultural.”

The research authors added that the issue of discrimination against women in law is extremely complex and religiously sensitive. Several women's rights-related provisions in personal-status laws of sectarian communities are allegedly derived from sacred canons. This fact helps justify the hinder of any step towards codifying gender equality laws on religious grounds.

The research reflected on legislation that blatantly discriminates against women – by invoking guardianship of men – in matters of marriage, divorce, alimony, custody, waiting period, guardianship, trusteeship, and inheritance.

Statutes concerning divorce [explicitly discriminate](#) between the rights of women and men. We do not speak only of Christian women, but of all Syrian women, as they all share the same economic, social, and legal situation. For example; All Syrian personal status laws do not recognize women's contributions to the acquisition of marital home furniture, unless under official documents.

▪ Legislation Promotes Male Guardianship

For her part, Sawsan Zakzak, a Syrian feminist researcher and activist, confirmed that Christian personal status laws tended towards equality between men and women, especially in matters of inheritance. Yet, these laws are still based on male guardianship, as they provided for the women's (wives, daughters, or sisters) obedience to the family's males in return for financial support.

Furthermore, Article 48 of the Armenian Orthodox Personal Status Law restricts the wife's right to work, as it states “A woman shall not A woman cannot take an interest in a job or pursue a profession without her husband's direct or indirect consent. If the husband, however, refuses to give consent and the wife proves that it is in the interest of the union and the family to take an interest in a job or pursue a profession, the court of first instance shall give her the required permission”

According to Zakzak, ensuring women's rights in Syria requires; adopting a civil family code, repealing all sectarian personal status laws, amending the penal code with repealing of all discriminatory articles therein, enacting a law to protect women and girls from violence, as well as amending the Labor, Agricultural Relations, and Insurance Laws.





[Christians in Syria](#) belong to a variety of denominations, including the Greek Orthodox, which dates back to the first century, and the Armenian Protestant dates back to the late 19th century.

The country's largest Christian denomination is the Greek Orthodox Church and the smallest is the Chaldean Catholic Church. Each Christian sect in Syria has its own spiritual court, which has jurisdiction to handle divorce cases if the spouses are Christians or foreigners who follow the canons of the Church in their personal status affairs.

▪ Inheritance When Religions Differ

Nael Gerges, a scholar and human rights researcher, pointed out that there are many discriminatory laws against Christians in Syrian legislation, especially those related to women's rights. Gerges cited Article 3 of the current [2012 Syrian Constitution](#), which states:

“The religion of the President of the Republic is Islam; Islamic jurisprudence shall be a major source of legislation; The State shall respect all religions, and ensure the freedom to perform all the rituals that do not prejudice public order; the personal status of religious communities shall be protected and respected.”

Gerges argued that this Article reinforces the fragmentation of personal status laws and strengthens their sectarianism rather than undermining it vis-à-vis the civility of the state and laws.

In the same vein, Gerges paid tribute to mixed marriage (marriage between persons of different racial, ethnic, or religious groups). He said that banning this type of marriage in a country raises sectarian problems and religious tension and may create social and legal issues, including non-marital childbearing and religious conversion for the sake of marriage or inheritance.

According to Article 264 of the Syrian [Personal Status Law](#), a non-Muslim cannot inherit from a Muslim and a Muslim cannot inherit from a non-Muslim. Meaning that if a Muslim man marries a Christian woman, he does not inherit her – nor their children – and she does not inherit him. Similarly, Article 178 of the [Catholic Personal Status Law No. 31 of 2006](#) stipulates for denying spouses of different religions access to the inheritance.

These Articles prompted lots of criticism for depriving spouses and their children of their natural right to inheritance merely because of different religions.

Josephine (pseudonym), 56, from Latakia spoke to STJ about circumventing the law and following convoluted procedures to preserve inheritance rights. Josephine explained:





“When my husband realized that I would not be able to inherit him after his death because of our different religions, he bought me gold jewelry and a house, which he registered in my name. Years later I gave the jewelry to my daughter and transferred the ownership of the house to her because she would not be able to inherit me.”

Josephine added:

“This is the easiest way to preserve our inheritance. We will not be done justice by current laws that do not respect the strong bond between a wife and husband as well as a mother and daughter.”

Gerges confirmed that such legal gaps prompted many people to convert to Islam just to achieve certain gains, such as receiving an inheritance, winning child custody, evading paying spousal support, accessing polygamy, or getting an easy divorce. He also sees that the violation of the principle of equality and non-discrimination between citizens of Syria is manifested in laws that facilitate the conversion to Islam, while strictly prohibiting Muslims' conversion to Christianity or any other religion.

Syria has no unified law for personal status issues, but several sectarian laws:

- Syrian Personal Status Law No. 59 of 1953 and its amendments, regulates personal status for Muslims of all sects.
- Personal Status Law for the Druze Sect of 1948.
- The Greek Orthodox Personal Status Law No. 23 of 2004.
- The Syriac Orthodox Personal Status Law No. 10 of 2004.
- The Armenian Orthodox Personal Status Law.
- The Catholic Personal Status Law No. 31 of 2006.
- Law No. 2 of 2017 regulates inheritance and wills for the followers of the Evangelical denomination in Syria.
- Law No. 4 of 2012 regulates inheritance and wills among the Armenian Orthodox sect.
- The Jewish Code of Personal status/Qanun al-ahwal al-shaksiah li al –Musawiyyin.

▪ Legislation Deprives Christian Mothers of Custody

The Syrian courts often include in custody decisions of claims belonging to spouses of different religions the phrase: “The child’s custody goes to the parent of the most honorable religion”, with the “honorable religion” referring to Islam.





This is based on provisions of the Qadri Basha Personal Status Law of the 19th century, in accordance with Article 305 of the Syrian Personal Status Law No.59 of 1953, which states that in the absence of codified laws that sufficiently address a particular matter of the personal status of Muslims, generally, the rules of Hanafi jurisprudence (*fiqh*) apply.

Article 381 of Qadri Basha Personal Status Law states:

“Non-Muslim mother has the first claim to the custody of her child until it can understand religion and there is no fear that the child will become familiar with the beliefs and habits of non-Muslims.”

This means that the law deprives the Christian mother of the custody of her Muslim children, providing that after that age of "religious maturity" children should be raised according to the principles of the Muslim religion and that a Christian mother would not be able to give them such a religious upbringing.

Furthermore, Article 355 of the same Law provides that the minor and his/her legal guardian must share the same religion.

Thus, the Law leads to the Christian mother's denial of her right to custody in case of marriage to a Muslim, or to a Christian who converted to Islam for the sake of getting a divorce or winning custody.

Gerges believes that the interest of the child shall be the primary consideration when determining the custody between the parents, regardless of their religion.

Muhammad Qadri Pasha (1821-1886) is an Egyptian jurist of Turkish origin who codified Sharia rules regarding family law on the basis of the Hanafi doctrine in a [book](#) entitled “Legal Provisions in the Personal Status”. The book that was laid in the late 19th century signaled a significant move in the area of codifying the provisions of Islamic Sharia in well-structured articles with a European style. That was to serve the desire of Isma'il Pasha, the Khedive of Egypt as part of the movement to reform the deteriorating Ottoman Empire and the Egyptian Judiciary.

The preface to the book reads, “The book includes provisions govern the human's affairs from birth to death and regulate division of his/her inheritance among heirs.”

Qadri Pasha was the first to use the concept of “personal status” in the East. This term was coined by Italian jurists in the 12th and 13th centuries AD to solve the problem of the conflict of laws. The [term](#) was then spread in Europe and was developed by French jurists.





■ Legislation Violates Constitutional Protection for Diversity

A Syrian judge, Riyadh Ali, confirms that the Syrian law has no legislation that discriminates against Christians in particular. Nevertheless, there are provisions that favor Islam over all other religions, including Christianity with all its sects.

Although the Syrian Personal Status Law allows the marriage between a Muslim man and a non-Muslim woman, it provides for their inability to inherit each other (Article 364).

Among the discriminatory provisions in Qadri Pasha's book is the one that the marriage of a Muslim woman to a non-Muslim man is invalid, if children result, they should be placed with their mother since she follows "the most honorable religion".

Article 358 of the same book states, "The one who picks an abandoned child has the ultimate right to keep it; even a ruler cannot take it from him/her except if he/she is ineligible to protect it. If a Muslim and non-Muslim dispute over an abandoned child, the judge shall entrust it to the Muslim. If the disputing parties are both Muslims the case would be subject to the judge's discretion."

Article 29 of the Syrian Civil Code No. 13 of 2021 states: "The law considers a [child of unknown parentage](#) a Syrian Arab Muslim born in Syria in the place where he was found, unless proven otherwise."

Ali pointed out that the aforementioned legal texts contradict Article 9 of the current Syrian Constitution, which stipulates that, "As a national heritage that promotes national unity in the framework of territorial integrity of the Syrian Arab Republic, the Constitution shall guarantee the protection of cultural diversity of the Syrian society with all its components and the multiplicity of its tributaries."

■ Can Civil Laws be a Solution?

Judge Ali believes that having several personal status laws is a natural outcome of Syria's diversity. These laws were put at the request of the clergy, alleging the differences in dealing with personal status-related matters (marriage, divorce, wills, inheritance) among religions and denominations.

It is not easy at the present time to replace personal status laws with civil ones, he said, Syrian people of all religions and sects are not ready to accept new personal status laws which may contradict their own beliefs.

However, Ali suggested that a unified personal law could still be established by allowing clerics of different religions and denominations to share different approaches and debate varying perspectives in the spirit of coherence and complementarity, taking into account the peculiarities of each religion.





For its part, Zakzak believes that the multiplicity of the Personal Status Laws according to the denominations contributes to the breakdown of the society, and makes the unity of the law suffers.

Zakzak explained: "My family is subjected to three different Personal Status Laws! The law that applies to my brothers is different from that applies to me, upon my husband's sect, and the two laws are different from that applies to my sister, according to her husband's sect."

Zakzak stressed the need to establish a gender-sensitive unified civil family code that governs Syrians of all religions and denominations and guarantees the rights of children. This law shall also regulate family relations on an equal basis, which would help adjust the course of justice, according to Zakzak.

Gerges partially agrees with Zakzak's view; he stressed on the need to implement civil laws in parallel with religious ones. He said that the law must allow civil marriage, and then the couple can choose between following the civil or the religious law or both to get married. Furthermore, Gerges urged lawmakers to reformulate the applied religious laws in a way that respects the rights of women, children, and non-Muslims.

It is currently difficult to abolish all religious personal status laws applicable to Christians because many of them consent to these laws. However, it is unacceptable to keep provisions incompatible with human rights. It is necessary to draft personal status laws free of all forms of discrimination and to issue a civil marriage law, which maintains the particularity of personal status laws of each sect.

▪ Bridging the Divisions between Religions

Gerges argued that, "Diversity mismanagement and the absence of a citizenship state caused serious human rights violations as well as sectarian and ethnic conflicts. The main reasons for the deterioration of the situation of minorities and the increase of religious and ethnic tension in Syria are the influence of religion and sectarianism on the structure of the state, on the one hand, and the dominance of an authoritarian regime of Arab nationalism ideology on the other hand. The continuous interference and use of religion in politics and legislation, in addition to a lack of public liberties and political pluralism, played a big role in preventing the rise of a state based on equal, democratic citizenship that fosters religious and ethnic diversity on the basis of the principle of state neutrality. This contributed to widening the already deep divisions among religious communities and thus to the outbreak of widespread protests in 2011.

▪ Management of Religious Diversity

Gerges concluded by stressing the need to establish the rule of law in Syria, as we want a state that treats all its citizens equally regardless of religion, ethnicity, and race, and in which a human feels protected by international laws, not by his/her sect, clan, or tribe. That would contribute to strengthening the concepts of allegiance and belonging to the homeland, easing sectarian and ethnic tension, and eliminating narrow affiliations. Furthermore, the settlement of the Syrian issue requires the implementation of transitional justice, national reconciliation



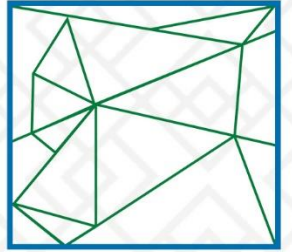


programs, and compensation for victims. All of this will contribute to shaping the new Syria, establishing lasting and sustainable peace, and achieve equality, and reinforcing the rule of law.

Ali also advocated the need to foster the principle of freedom of religion and belief, respecting all religions and sects equally, and abolishing legal texts that discriminate against religions other than Islam. These texts must be amended in accordance with international agreements and treaties ratified by Syria, as he asserted.

In case of conflict between provisions of domestic laws and those of international treaties to which Syria is a party, the latter shall prevail.





About Us:

Syrians for Truth and Justice (STJ) is a nonprofit, nongovernmental organization monitoring human rights violations in Syria. Founded in 2015, STJ has been based in France since 2019.

STJ is an impartial and independent Syrian human rights organization operating across Syria. Our network of field researchers monitor and report human rights violations occurring on the ground in Syria, while our international team of human rights experts, lawyers, and journalists gather evidence, examine emerging patterns of violations, and analyze how violations break domestic Syrian and international law.

We are committed to documenting violations of human rights committed by all parties in the Syrian conflict and elevating the voices of all Syrians victimized by human rights violations, regardless of their ethnicity, religion, political affiliation, class, and/or gender. Our commitment to human rights monitoring is founded on the idea that professional human rights documentation meeting international standards is the first step to uncovering the truth and achieving justice in Syria.



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EDITOR@STJ-SY.ORG