

SYRIA¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES

(Updated as at 26 May 2022)

The following paper presents an overview of Muslim Family Law in Syria by discussing several issues related to Syrian family law and contextualizes them in their legislative framework, that is, the laws and legislation currently enforced in Syrian courts, and the history of laws and legislation preceding them.

The paper also presents Syria's position on international agreements and understandings concerning Family Law, notably the Convention on the Elimination of Forms of Discrimination Against Women (CEDAW), which Syria ratified on 25 September 2002 with reservations to several articles and paragraphs. Some of these reservations concerned articles related to allowing women to grant their children nationality, the freedom of women's movement and housing, and equal rights and responsibilities during marriage and upon its dissolution with regard to guardianship, lineage, alimony, and adoption.

This paper is accompanied with statistics issued by international organizations which provide insight into Syria's ranking on the human development index, the status of children, underage marriage, and polygamy.

Since the Syrian government began using excessive force in response to peaceful demonstrations in March 2011, the country has plunged into a state of security and institutional chaos. Syria remains a conflict zone, with millions both inside and outside of Syrian territories without access to state institutions. This means millions are far from legal application and protection, if any. According to the latest population statistics issued by the World Bank in 2020, the Syrian population has reached 17.5 million people, with the number of those internally and forcibly displaced reaching 6.9 million, and the number of refugees reaching 5.6 million according to the High Commissioner for Refugees in 2021.

¹ This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Syria country table, we would also like to thank Katherine Gonzalez from Harvard Law School, and Syrian family law experts/advocates who wish to remain anonymous, for their inputs in its preparation.

Furthermore, many Syrian laws, especially the Personal Status Law, which was last amended in 2019, were issued to cover up the violations committed by the Syrian government, which seeks to project a global image as a guardian of women and children's rights.

However, the reality on the ground is different. Syrian laws do not reflect the societal or political complexities of the moment. The adoption of laws related to the family does not mean that they are practically enforced, nor do those laws necessarily reflect the diversity of religions, sects, and ethnicities in the society onto which they are being applied. For example, Article 9 of the General Syrian Penal Code still gives the rapist/aggressor a "mitigating excuse" if he marries the victim, even as the law calls for the perpetrator to be prosecuted in the event of a "sham marriage." In the same Article (paragraph 2), the law states that the prosecution of the rapist/aggressor should cease, if the latter marries the victim. In addition to corruption and bribery, Syria has ranked at the bottom of Transparency International's Ranking, ranked 178th out of 180 countries, indicating that the country is among those where corruption is most prevalent.

In many cases, women do not dare to complain for social reasons and the lack of institutional mechanisms in place to protect them if they do. There is no legal legislation on family law, and there is no law on domestic violence or gender-based violence. Instead, cases of domestic or family violence are dealt with through the legal texts and the judiciary procedures stipulated in the Syrian General Penal Code 148 of 1949 and its amendments. Syria continues to witness a decline in the level of the implementation of human rights, especially of those of women and children, in areas controlled by both Syrian government and de-facto authorities in northern Syria.

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognize marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncoded? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If</p>	<p>Article 33 of the Constitution:²</p> <ul style="list-style-type: none"> States that all Syrians are equal before the law in rights and duties without discrimination on several bases, including gender. Guarantees the principle of equal opportunities among Syrians. <p>Article 23 of the Constitution obligates the State to provide women with all opportunities enabling them to effectively and fully contribute to political, economic, social, and cultural life and also to remove the</p>	<p>For the practical application of Article 305 of the SPSL, judges and lawyers consult the Personal Status Code compiled by the Egyptian jurist, Muhamad Qadri Pasha in 1875.¹²</p> <p>However, according to Article 305-B of the amended SPSL of 2019, any legal matter that is stipulated by this law is referred back to the preponderant opinion of the</p>	<p>Syria made <u>reservations</u> to several articles and paragraphs in the Convention, which are (1) Article 2 Paragraph 2 of Article 9 related to the women's right to grant nationality to their children, (2) Paragraph 4 of Article 15 related to freedom of movement and residence, (3) items (c), (d), (f) and (g) of Paragraph 1 of Article 16 related to equality in marriage, (4) Paragraph 2 of</p>		<p>The Syrian Arab Republic's Human Development Index value for 2019 was 0.567, or 151 out of 189 countries and territories. Its index is below the average for countries in the medium human development group and below the average for countries in Arab States. Syria has a Gender Inequality Index of 0.482, ranking</p>

² Article 33 of Syria's Constitution (2012), https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

¹² United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en.

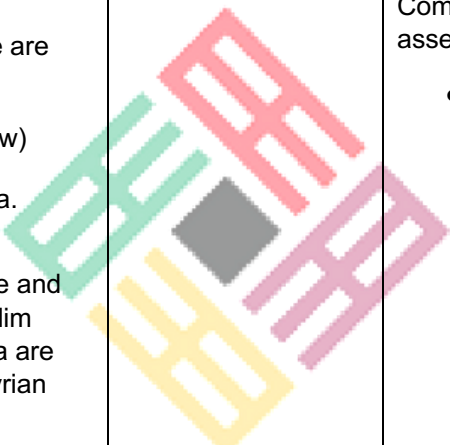
<p>uncodified, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c)</p> <p>Paras. 17-18 GR21</p> <p>Paras. 54-55 GR29</p>	<p>restrictions that prevent women's development and participation in building society.³</p> <p>Article 20 of the Constitution:⁴</p> <ul style="list-style-type: none"> • Declares the family as the nucleus of society and obligates the law to maintain its existence and strengthen its ties; • Obligates the State to protect and encourage marriage and work, and to remove material and 	<p>jurisdiction school from which it was derived. This means that the Personal Status Code of Qadri Pasha became a reference only for matters related to Hanafi jurisprudence.</p>	<p>Article 16 related to the betrothal and the marriage of a child, and (5) Paragraph 1 of Article 29 related to the arbitration of disputes between States Parties concerning the interpretation or application of the Convention.¹³ However, President of the Republic, Bashar al-Assad, issued Decree No. 230 of 2017, in which he <u>lifted</u> the reservation to Article 2, with due regard</p>		<p>it 122 out of 162 countries in the 2019 index.¹⁸</p> <p>According to a UN-FPA <u>report</u>, as a result of the Syrian conflict that has caused the death of many male figures who are the traditional heads of household (e.g. husband, son or brother) almost one in every three households are headed by women.</p>
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³ Article 23 of Syria's Constitution (2012), https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

⁴ Article 20 of Syria's Constitution (2012), https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

¹³ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 65, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>.

¹⁸ "The Next Frontier: Human Development and the Anthropocene – Syrian Arab Republic." *Human Development Report 2020*, pp. 1-7, <https://hdr.undp.org/sites/default/files/Country-Profiles/SYR.pdf>.

	<p>social obstacles that hinder it.</p> <ul style="list-style-type: none"> • There is no Family Law that governs the personal status issues of all Syrian citizens. • Issues on which there are no laws are dealt and decided according to custom (customary law) since there are no unwritten laws in Syria. <p>Matters regarding marriage and family relations of the Muslim majority population in Syria are mainly governed by the Syrian Personal Status Law No. 59/1953 (SPSL) and its amendments as well as Law</p>		<p>for the peremptory norms of Islamic Sharia.¹⁴</p> <p>The Government of Syria in its 2012 report to the CEDAW Committee asserted that:¹⁵</p> <ul style="list-style-type: none"> • The SPSL guarantees women many rights. It is necessary to increase awareness of the rights in order to enhance their ability to exercise the 		
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¹⁴ UNDP, “Human Development Report 2016”, Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf.

¹⁵ UNFPA, “Syrian women-headed households: hoping to survive and move on”, 2013, <http://reliefweb.int/sites/reliefweb.int/files/resources/UNFPA%20Syrian%20women-%20headed%20households,%20hoping%20to%20survive%20and%20move%20on.pdf>.

	<p>No.20 of 2019.⁵ In the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, based on Article 305 of the SPSL, generally, the rules of Hanafi jurisprudence (<i>fiqh</i>) apply.⁶</p> <p>The SPSL applies to all Syrians regardless of religion. However, certain matters (e.g. marriage and divorce) relating to the Christian, Jewish and Druze communities are excluded from applications of the SPSL in accordance with Articles 306-308. These matters are governed by the communities</p>		<p>rights.¹⁶</p> <p>The Syrian government further emphasized that;</p> <ul style="list-style-type: none"> • Some articles of the SPSL are derived from religious texts which are quite difficult to amend in a conservative, largely religious society; • While 		
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⁵ Personal Status Law (1953), <https://elawpedia.com/viewfile/36>.

⁶ Article 305 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Lynn Welchman, "Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy", (Amsterdam: Amsterdam University Press, 2007), Endnote 1 (Chapter 4), pp. 45, 195, <https://goo.gl/AeQSDU>.

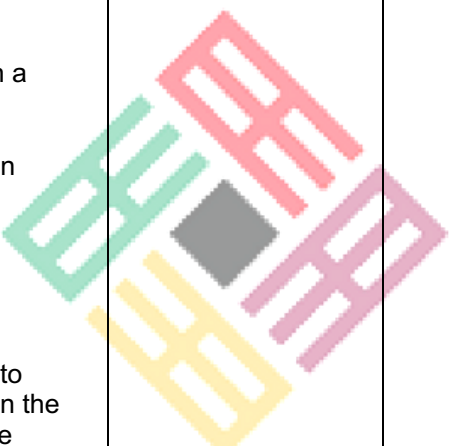
¹⁶ This formulation is stated by the Syrian government to express the state of women's laws in Syria, but the reality of the practical application of these rights and duties is different and contradicts the official government narrative.

	<p>own laws and ecclesiastical courts.⁷</p> <p>On 14 February 2021, the Syrian Minister of Justice, Ahmed al-Sayed, issued circular No. 7 of 2021, in which he affirmed that the SPSL of 1953 and its amendments are applicable to Yazidis in Syria on an equal footing with other Syrians except for those excluded in Articles No. 307 and 308.⁸</p> <p>Despite the equality guarantees under the Constitution, the SPSL provides for a marital framework based on “reciprocal” or “complementary” rights (as</p>		<p>international conventions supersede national laws, they do not supersede divine law and what it stipulates.</p> <p>The Syrian government lifted the reservation to CEDAW’s Article 2 in a manner consistent with the provisions of the Islamic Sharia.¹⁷</p>		
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⁷ Article 305 of the Personal Status Law (1953), <https://docs.google.com/file/d/0B8ITLJi5y4TKcXF3MFJnUTFwUmc/view>; Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 81, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

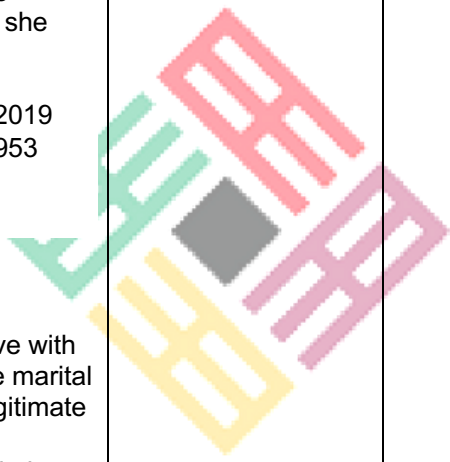
⁸ Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 81, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Esther van Eijk, “Family law in Syria: a plurality of laws, norms and legal practices”, (Netherlands: Leiden University, 2013), pp. 2-3, <https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift%20EvanEijk%2026July%202013%20corr.pdf?sequence=20>

¹⁷ Article 18(1) of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>.

	<p>opposed to “equal” rights) between the two spouses, whereby in return for maintenance and protection from her husband, a wife is expected to obey him.⁹ Thus:</p> <ul style="list-style-type: none"> • Article 1 of the SPSL defines marriage as a lawful contract between a man and a woman, the purpose of which is to establish a shared union and to procreate;¹⁰ • Article 5 states that a marriage is a contract between a man and a woman “that gives rise to rights and obligations on the part of each towards the other”; 				
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⁹ Esther van Eijk, “Family law in Syria: a plurality of laws, norms and legal practices”, (Netherlands: Leiden University, 2013), pp. 135-136, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20.

¹⁰ Article 1, 5, 72, 74 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 86, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Lynn Welchman, “Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy”, (Amsterdam: Amsterdam University Press, 2007), p. 178, <https://goo.gl/AeQSDU>.

	<ul style="list-style-type: none"> • Article 72 provides maintenance for the wife shall be obligatory on the husband from the time of the valid contract, even if she is living in her family's house, unless the husband has asked her to move and she refused without right; <p>Article 1 of <u>Law No. 20</u> of 2019 amended Law No. 59 of 1953 stated:</p> <p>The wife loses her right to alimony:</p> <ul style="list-style-type: none"> ❖ If she refuses to live with her husband in the marital home without a legitimate excuse; ❖ If she works outside her home without the consent of her husband.¹¹ 				
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¹¹ Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 56, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

	The SPSL does not explicitly define the stereotypical roles of husbands and wives. However, one can deduct from the marriage related SPSL provisions that the husband is considered to be the head of the family, and the woman is obliged to act obediently towards him.				
<p>Minimum and equal legal age for marriage</p> <p>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18, with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage?</p>	The legal minimum age for marriage is 18 for both boys and girls, according to Article 16 of the SPSL, amended by Law No.20 of 2019. ¹⁹ However, if the betrothed parties are younger than the required age, they can apply to the judge for permission to get married, provided they are physically mature, as Article 18.1 of the SPSL reads: “When an adolescent boy and girl claim to be physically mature after reaching the age of 15 the judge		<p>Syria has a reservation to CEDAW Article 16(2) because the provision is viewed as incompatible with Sharia.²³</p> <p>The Syrian Government acknowledged that Article 18 of</p>	The marriage contract shall be carried out by the judge or the court assistant who authorizes him to perform the contract. The two parties shall submit an application to the judge, accompanied by documents proving the civil status of each of	According to the State of the World’s Children Report issued by UNICEF in 2016, 13% of women aged 20-24 years in Syria married for the first time at the age of 18, and 3% at the age of 15.) ²⁷

¹⁹ Article 19 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

²³ Articles 40-43 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

²⁷ UNICEF, “The State of the World’s Children 2016”, Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

<p>Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</p> <p><u>Applicable CEDAW Provision</u> Article 16(2)</p> <p>Paras. 36-39 GR21</p>	<p>may allow them to be wed, if he deems the petition to be sincere (i.e. to have sexual relations).²⁰</p> <p><u>Article 18.2</u> stipulates that if the legal guardian of the minor girl is her father or grandfather, the couple will need his consent to the marriage.²¹</p> <p>A judge may withhold permission for a marriage if he finds the betrothed parties show a disparity in age, and if he can see no</p>		<p>SPSL provides an avenue for guardians to give their girls in marriage at an early age, particularly in rural areas.²⁴</p> <p>In its 2012 report to the CEDAW Committee the Syrian government maintains that since “climate and type of nutrition accelerates</p>	<p>them, and their age, for verification.²⁶</p>	<p>According to the Syrian government, the average age at first marriage was 26 years for females and 29 years for males, according to the 2009 Household Health Survey.²⁸</p>
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²⁰ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

²¹ Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 105, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>.

²⁴ UNICEF, “The State of the World’s Children 2016”, Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

²⁶ Girls Not Bride, “Child marriage and the Syrian conflict: 7 things you need to know”, 2016, <http://www.girlsnotbrides.org/child-marriage-and-the-syrian-conflict-7-things-you-need-to-know/>; Katherine Butler-Dines, “Child marriage & stateless children: Costs of the Syrian Crisis”, Georgetown Institute for Women, Peace and Security, 2 March 2017, Save the Children, “Too Young To Wed: The growing problem of children marriage among Syrians in Jordan”, 2014, http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/TOO_YOUNG_TO_WED_REPORT_0714.PDF; Helen Nianias, “The young refugee girls who are being pushed into marriage and violent relationships”, Guardian, 6 November 2016, <https://www.theguardian.com/global-development-professionals-network/2016/nov/06/the-young-refugee-girls-who-are-being-pushed-into-marriage-and-violent-relationships>

²⁸ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 378(a), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

	<p>benefit in the marriage, according to <u>Article 19</u> of the SPSL.²²</p> <p>The Syrian Penal Code prohibits the performance of marriages outside the court or customary marriages (Articles 469 and 472). The Code imposes a penalty on the contracting parties, their representatives, the witnesses to the contract, and the person who concludes it, usually a sheikh.</p> <p>Article 40.2 of the SPSL provides that an unregistered marriage can be registered once the required legal procedures are met. If, however, a child is born or pregnancy is apparent, the marriage will be recognized without the required procedures.</p>		<p>puberty,” and “given the prohibition on sexual relations outside marriage, it has at times been necessary to grant permission for a young woman to be married in an exceptional situation.”²⁵</p>		
Women’s consent to marriage	<p><u>Article 5</u> of the SPSL states: “The marriage takes place upon the affirmative of one of the parties,</p>	<p>Jurisprudence of the Syrian Court of Cassation</p>	<p>Paragraph 377 of <u>Syria’s second periodic report</u> of 2012 reads:</p>	<p>The presence of two male witnesses (or one male and two females) is required</p>	<p>The Syrian Law requires the woman’s consent to the marriage to</p>

²² Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 378(a), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>.

²⁵ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 378(a), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>.

<p>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (<i>ijbar</i>) prohibited? Is there a standard marriage contract? If so, what are its broad provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b)</p> <p>Paras. 15-16 GR21</p> <p>Paras. 25-26, 33-34 GR29</p>	<p>and acceptance from the other regardless of their ages."²⁹</p> <p>Article 11 states that both parties have to hear and understand the offer and acceptance and need to understand what the purpose of the contract is, namely, marriage.³⁰</p> <p>Article 30 of the Syrian Civil Code No. 13 of 2021 states that marriages and divorces between two Syrian nationals (both men and women) or between a Syrian and a foreigner cannot be documented in the civil registry unless they are performed before a competent authority in</p>	<p>It is permissible to prove the existence of the marriage between the two parties by personal evidence</p> <p>Law Code, 2015 issue, Basis 711 / Legitimacy of Resolution 685 of 2015.</p> <p><u>Jurisprudence of the Syrian Court of Cassation</u></p> <p>Marriage does not take place except with an offer from one of the contracting parties</p>	<p>"Men and women are free to choose their mates, break off an engagement and impose conditions each deem to be in his or her interest. The <i>Kafa'a</i> (suitability) condition for marriage is considered to be in the interest of the woman. A marriage contract is valid only with a woman's consent. It may be concluded only with the signature of the</p>	<p>to testify that the marriage was consented to between the husband and the wife.³⁷</p> <p>All marriages need to be registered in the court's registry, after which the court sends a copy of the marriage certificate within 10 days to the Department of Civil Affairs.³⁸ The procedure for registration of marriages in Syria is detailed in the website of the Norwegian Refugee Council and Institute</p>	<p>verify it. However, many women in Syria accept marriage under duress; either to escape domestic violence or poverty, especially since they have very limited access to the job market.</p>
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²⁹ Article 5 of the Personal Status Law (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

³⁰ Article 11.1 of the Personal Status Law (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

³⁷ Article 12 of the Personal Status Law (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>.

³⁸ Articles 40-45 of the Personal Status Law (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>.

<p>According to Islamic case law and the SPSL, marriage is a contract between two parties where there must be an offer from one party and acceptance from the other. The Syrian courts use standard contracts to which the names and personal details of the spouses are added, along with the names of the two witnesses, names of any representatives, and the name of the marriage officer (al-Ma'azoun al-Shari) who concluded the contract.</p> <p>There are also separate sections for the size of the dowry and any “special requirements”, i.e. other circumstances that the spouses have agreed to include in the</p>	<p>accordance with related laws and regulations in force.³¹</p> <p>Marriage and divorce contracts that are not recorded in the civil registry are considered invalid.³²</p> <p>Article 60 of the Syrian Civil Code No. 13 of 2021 imposes fines in cases of non-registration of civil status incidents.</p> <p>Non-registration of a marriage does not necessarily invalidate the marriage. Article 40 of the SPSL provides that an unregistered marriage can be registered once the required legal procedures are met. If, however, a child is born or pregnancy is apparent, the marriage will be</p>	<p>and acceptance from the other, which is the main pillar in it, and in the absence of it, there is no marriage.</p> <p>Neither sexual intercourse nor pregnancy is sufficient to prove it unless cohabitation has taken place and witnesses testify.</p> <p>The judge must investigate the two parties, witnesses, and listeners in order to find out the meaning of the</p>	<p>man and the woman.”³⁶</p>	<p>on Statelessness and Inclusion.³⁹</p> <p>While unregistered or customary marriages (<i>urfi</i>) do not necessarily invalidate a marriage, it is important to officially register marriages. Women and children are placed invulnerable situations in unregistered marriages. A marriage is not considered legal</p>	
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³¹ Article 30 of the Syrian Civil Code No. 13 (2021), <https://sana.sy/?p=1344988>

³² Article 40.2 of the Syrian Personal Status Law (1953) amended by Law No. 4 (2019), <https://sana.sy/?p=892746>

³⁶ Ibid.

³⁹ Norwegian Refugee Council and Institute on Statelessness and Inclusion, “Civil Registration Procedures in Syria”, available at the link: <http://www.syrianationality.org/nationality-documentation-and-statelessness-in-syria/documents-issued-in-syria>

<p>contract. In order to register their marriage, the spouses must submit this contract enclosed with other required documents to the Sharia court to be ratified by the Sharia judge.</p> <p>Marriages that are entered into privately outside the court, or customary marriages, can be registered under a lawsuit filed by one of the spouses against the other to the Sharia court and wait for a judicial decision that allows them to a marriage document from the Civil Registry.</p>	<p>recognized without the required produces.³³ This registration does not prevent the legal punishment.</p> <p><u>Article 21</u> of the SPSL, amended by Law No. 4 of 2019, provides that a woman has the right to invalidate a marriage imposed by her guardian without her overt consent.</p> <p><u>Article 307</u> of the SPSL states that the Druze community is explicitly exempted from those provisions that run counter to their beliefs.³⁴</p> <p>The Article excludes the application of the SPSL for the Druze community on several points, including impediments to marriage. In the Druze</p>	<p>agreement of the two parties. Syrian Cassation - Sharia Chamber No. 63, Resolution 52 dated 3/1/1973.³⁵</p>		<p>until recorded in the civil registers and children of an unregistered married cannot be registered unless the marriage of the parents is first registered.⁴⁰</p> <p>Syria only recognizes Marriages conducted at sharia courts and subsequently documented at the civil registry in accordance with due procedures. The lack of one of these</p>	
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³³ Article 21 of the Syrian Personal Status (1953) amended by Law No. 4 of (2019), <https://sana.sy/?p=892746>.

³⁴ Jurisprudence of the Syrian Court of Cassation on the proof of marriage, <https://www.syrian-lawyer.club/%D8%A7%D8%AB%D8%A8%D8%A7%D8%AA-%D8%A7%D9%84%D8%B2%D9%88%D8%A7%D8%AC/>

³⁵ Syria's second periodic report to CEDAW, 25 October 2012, pp. 106-107, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSYR%2f2&Lang=en

⁴⁰ Articles 28-30-32 of the Syrian Civil Code No. 13 (2021), <https://sana.sy/?p=1344988>.

	community, the judge at the Mathhabia (religious) court verifies the eligibility of the two parties for the marriage before the contract. The Mathhabia court refuses to register customary marriages			procedures invalidates the marriage contract.	
<p>Women’s capacity to enter into marriage</p> <p>Is consent of a marital guardian (<i>wali</i>) required? If so, can a woman choose her own guardian? Can a woman go before a court or other competent authority to seek permission to marry if her guardian refuses to consent to her marriage?</p> <p>Can a woman negotiate her marital rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what</p>	<p>Article 20 of the SPSL stipulates that a woman, age 18 and above, can contract her own marriage; however, the judge will still ask her guardian for his opinion. If the guardian does not object to the marriage or his objections are ill-considered, the judge shall give permission for the couple to get married, provided the betrothed parties are suitable to each other and the suitor can provide the woman with a dowry equal to that of her peers.⁴¹ (If the guardian refuses the marriage arbitrarily, he will be called an “abusive guardian” and the judge will act as her legal guardian).</p>	<p>In 1956, the Court of Cassation held that the exact interpretation of the concept of Kafa’a is to be determined at the discretion of the judge. Nevertheless, currently, it appears that the key elements of Kafa’a in marriage are parity in faith and financial means or wealth between the two prospective parties. A groom’s descent, his occupation, or</p>			<p>Women are entitled to marry, in the aforementioned legal conditions, without their guardian’s approval if they are 18 years old.</p>

⁴¹ Article 20 of the Syrian Personal Status Law No. 4 of (2019), <https://sana.sy/?p=892746>

<p>circumstances e.g. mutual consent?</p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21</p> <p>Para. 34 GR29</p>	<p><u>Article 14</u> of the SPSL No. 4 of 2019 gives the spouses the right of each spouse to include her or his own conditions in the marriage contract, provided that these terms do not violate Sharia (Islamic law) and Syrian law.⁴² The conditions must be stated explicitly in the marriage contract and either spouse has the right to the annulment of the contract if the valid stipulations are not upheld. The spouses can amend the conditions anytime provided they both give consent.</p>	<p>difference in social class is no longer relevant to the court.⁴³</p> <p>Lawyers Journal for the year 1993 / Issue 9-10 / Marriage - Contract - Will - Evaluation of Evidence - Monitoring: Case 30 Basis of 1992</p> <p>Resolution 407 of 1992</p> <p>Date 20/6/1992</p> <p>Principle: Marriage - Contract - Will - Assessment of</p>			
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⁴² Article 14 of the Syrian Personal Status Law No. 4 (2019), <https://sana.sy/?p=892746>.

⁴³ "Decisions and rulings from the Court of Cassation, the Court of Appeal, and the Court of First Instance." *My Court*, <https://mahkamaty.com/blog/>. Last accessed: August 2022.

		<p>Evidence - Control:⁴⁴</p> <p>Marriage is concluded with the offer of one of the parties and the acceptance of the other.</p> <p>Confirmation of marriage before the exchange of offer and acceptance in an acceptable form under Sharia and the law and proving that the two parties' wills were devoted to the establishment of the sacred marriage bond makes the decision premature.</p> <p>The Syrian Court of Cassation, Sharia</p>			
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"Jurisprudence of the Syrian Court of Cassation on the proof marriage." *Syrian Lawyer's Club*, 24 November 2019, <https://www.syrian-lawyer.club/%D8%A7%D8%AB%D8%A8%D8%A7%D8%AA-%D8%A7%D9%84%D8%B2%D9%88%D8%A7%D8%AC/>.

		<p>Chamber Resolution No. 217-383 dated 15/5/1977</p> <p>“Jurists agree that the Kafa’a is a requirement in the interest of the woman, not the man”</p> <p>The Court of Cassation decided to leave the exact interpretation of the concept Kafa’a to the discretion of the judge, who decides on it according to the custom of the country.</p> <p>Syrian veto - Sharia Chamber No. 313 Resolution 286 dated 10/13/1962⁴⁵:</p>			
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⁴⁵ “Decisions and rulings from the Court of Cassation, the Court of Appeal, and the Court of First Instance.” *My Court*, <https://mahkamaty.com/blog/>. Last accessed: August 2022.

		<p>A minor is considered an adult after her marriage in all matters relating to her marital right, except what excluded in Article 95.2 of the SPSL that states:</p> <p>“In a mukhala’a [a consensual conditioned divorce] divorce, a wife who has not yet reached the age of majority cannot be obliged to pay the compensation payment without the consent of her financial guardian.”</p>			
<p>Polygamous marriages</p> <p>Does the law prohibit polygamy or impose strict conditions on such practices? Is the permission of the court required for a polygamous marriage? Is the permission of an existing</p>	<p>A Muslim man may marry up to four wives at one time.</p> <p>Based on Article 17 of the SPSL, a man may not marry more than one woman except with the authorization of a judge. A judge may only authorize the polygamous marriage if:</p>		<p>The Government of Syria in its 2005 report to the CEDAW Committee</p> <p>said that “it should be pointed out that</p>	<p>A woman can stipulate in the marriage contract that if her husband</p> <p>takes on another wife, she has the</p>	<p>According to media reports, the ongoing war in Syria may be contributing to an</p> <p>increase in polygamous marriages. As a</p>

<p>wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (<i>misyar</i>) recognized? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21</p> <p>Para. 34 GR29</p>	<p>(i) there is legitimate reasons to do so; and (ii) the husband has the financial capacity to support all wives.⁴⁶</p> <p>Article 68 of the SPSL states that wives must be treated equally in terms of housing.⁴⁷</p> <p>Article 67 of the SPSL prohibits a man from housing multiple wives in the same home without their consent.⁴⁸</p> <p>Articles 52 and 63 of the Personal Status Law address temporary marriages, calling it an "invalid contract",⁴⁹ but nonetheless</p>		<p>the system of polygamy was not established by Islam; on the contrary, Islam very narrowly defines and restricts polygamy to addressing situations common to orphans who need of a father to take care of them."⁵²</p> <p>There is no article in Syrian law that</p>	<p>right to petition a court for divorce.⁵⁴</p>	<p>greater number of men continue to be killed in Syria, women are making the decision to become someone's second wife.</p> <p>According to recent data, polygamous relationships accounted for 30% of marriages registered in Damascus in 2015, up from</p>
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⁴⁶ Article 17 of the Syrian Personal Status Law (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

⁴⁷ Article 68 of the Syrian Personal Status Law (1953, <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

⁴⁸ Article 67 of the Syrian Personal Status Law amended by Law No.4 (2019), <https://sana.sy/?p=892746>

⁴⁹ Article 52 of the Syrian Personal Status Law amended by Law No.4 (2019), <https://sana.sy/?p=892746>

⁵² Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 88, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁵⁴ Article 14 of the Syrian Personal Status Law amended by Law No.4 (2019),: <https://sana.sy/?p=892746>

<p>According to the SPSL, it is not necessary to inform an existing wife of the polygamous marriage. If the new wife accepts this marriage, it will be conducted and registered in accordance with due procedures.</p>	<p>stating that in such a marriage, “the status of the husband shall be taken into account, with the provision that the dowry shall be not more than half that of the woman’s peers.”⁵⁰</p> <p>Polygamy SPSL-related articles are not applicable to the Druze community, as the Mathhabia court prohibits polygamous marriages.⁵¹</p>		<p>allows temporary marriage, and Syrian law punishes those who perform such marriages.⁵³</p>	<p>just 5% in 2010.⁵⁵</p> <p>According to the Tahir Justice Centre, the practice of temporary marriage occurs among Shia Muslims. Based on information collected by the UN and the Jordanian government, 500 under-aged Syrian girls were married in</p>
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⁵⁰ Article 63 of the Syrian Personal Status Law (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

⁵¹ Paragraph /b/ of Article 307 of the Syrian Personal Status Law No. 59 (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

⁵³ Fifth periodic report submitted by the Syrian Arab Republic under article 44 of the Convention on the Rights of the Child, p.55, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/330/88/PDF/G1733088.pdf>

⁵⁵ Omer Karasapan, “The war and Syria’s families”, *Future Development*, 22 March 2017.

					temporary marriages in 2012. ⁵⁶
<p>Divorce rights</p> <p>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce only be sought through the courts?</p> <p>Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (<i>talāq</i>) prohibited? If unilateral divorce is not</p>	<p>The SPSL provides for three different mechanisms for divorce:</p> <p>(i) unilateral repudiation (<i>talaq</i>); (ii) judicial divorce; (iii) redemptive divorce (<i>mukhala'a</i>).⁵⁷</p> <p>A husband may unilaterally repudiate a marriage without much restrictions.⁵⁸</p> <p>A husband may delegate his unilateral right to divorce to his wife (<i>isma</i>) through a stipulation in the marriage contract, thus permitting her to pronounce</p>	<p>A decision of the Court of Cassation on the unilateral arbitrary divorce by a man (Resolution 194-195- 28/5/1960) says:⁶³</p> <p>“Unexplained divorce is considered arbitrary. In such a case, the wife shall not need to prove the arbitrariness of the divorce. That is because the reason</p>			<p>According to academic research, while the wife’s consent to mukhala’a must be voluntary, in practice women are sometimes pressured into seeking a mukhala’a divorce. It offers a husband a cheap way of obtaining a divorce, as he can evade paying post- divorce maintenance and</p>

⁵⁶ Tahiri Justice Centre, “Syria”, *Forced marriages overseas*, <http://preventforcedmarriage.org/forced-marriage-overseas-syria/>

⁵⁷ Articles 87-117 of the Syrian Personal Status Law (1953) and its amendments by Law No. 4 (2019), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree& / https://sana.sy/?p=892746>

⁵⁸ Esther van Eijk, “Family law in Syria: a plurality of laws, norms and legal practices”, (Netherlands: Leiden University, 2013), p. 257, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

⁶³ Dr. Hassan Al-Bugha and Dr. Mustafa Al-Bugha: “Personal Status Law No. 1”, *the Syrian Virtual University*, 2018, p. 192.

<p>prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, and/or is the divorced spouse informed of the divorce? Is the unilateral right to divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c)</p> <p>Paras. 17-18 GR21</p> <p>Paras. 34, 39-40 GR29</p>	<p>divorce upon herself (<i>talāq-i-tafwid</i>).⁵⁹</p> <p>The SLPS recognizes various grounds for judicial divorce (<i>tafriq</i>), divided into four types:</p> <ul style="list-style-type: none"> • Divorce on the grounds of disease or defect , which include insanity • Divorce on the grounds of the impotence of the husband; • Divorce on the grounds of absence or disappearance, for example due to imprisonment; • Divorce on the grounds of non-payment of maintenance; • Divorce on the grounds of discord between the 	<p>of the divorce is unknown, so the wife cannot refute it.</p> <p>Law Code 2015 Issue Base 390 / Legitimacy of Resolution 359 of 2014 “The assessment of abuse and its impact on the dowry depends on the conviction of the two judges.”</p> <p>Law Code 2015 Issue Base 414 / Legitimacy of</p>			<p>any remaining dower costs normally associated with talaq.⁶⁵</p> <p>Men who want a divorce and owe their wives large dowries usually file for judicial separations and do not perform unilateral divorce. This is because arbitrary unreasonable divorce entitles the woman to compensation from her husband and to her full dowry, according</p>
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⁵⁹ Articles 105-112 of the Syrian Personal Status Law (1953) and its amendments by Law No. 4 of (2019), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&> / <https://sana.sy/?p=892746>

⁶⁵ Esther van Eijk, “Family law in Syria: a plurality of laws, norms and legal practices”, (Netherlands: Leiden University, 2013), pp. 189-190, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

<p>In the case of the unilateral divorce by the husband, the court defers acting upon the case for a month in the hope of reconciliation. If after that month the husband returns to the court and insists on the divorce, the judge will inform the wife, register the divorce, and send a copy of the divorce contract to the civil registry.</p>	<p>spouses.⁶⁰</p> <p>A wife may seek redemptive divorce (<i>mukhala'a</i>), whereby she is granted a divorce in exchange for a mutually-agreed compensation to be paid to the husband. A <i>mukhala'a</i> divorce requires the consent of both parties.⁶¹</p> <p>The mandatory registration of a divorce is provided for in Articles 30-31 of the Civil Status Law.⁶²</p>	<p>Resolution 404 of 2015⁶⁴:</p> <p>“The two judges must try their utmost to reconcile the spouses and bridge the gap between them.”</p> <p>Syrian veto - Resolution 61 Basis 822 dated 14/2/1983:</p> <p>In all divorce cases, if the woman renounces her matrimonial rights, this will not include</p>			<p>to the SPSL amended by Law No. 4. However, in cases of separation for dissension, the judge establishes the level of culpability ascribed to either the husband or the wife or both, in order to determine if and how much of the remaining dowry and (possibly) post-divorce maintenance must be paid.</p>
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⁶⁰ Articles 112-115 of the Syrian Personal Status Law (1953) and its amendments by Law No. 4 (2019), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&> .

⁶¹ Articles 95-104 of the Syrian Personal Status Law (1953) and its amendments by Law No. 4 of (2019), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&> / <https://sana.sy/?p=892746>

⁶² Articles 30-31 of the Syrian Personal Status Law No.13 (2021), <https://sana.sy/?p=1344988>

⁶⁴ “Syrian Lawyer’s Magazine,” *The Library of Arab Law*, https://www.bibliotdrait.com/2016/02/blog-post_290.html, Last accessed: August 2022.

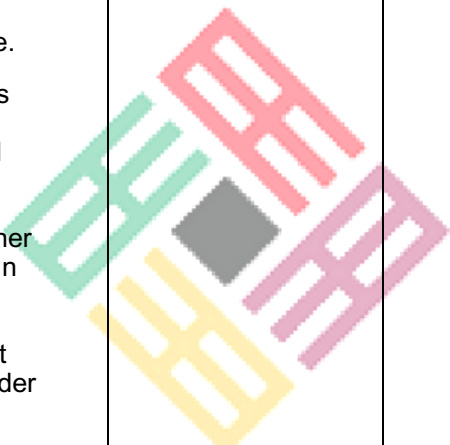
		properties her husband bought her and registered in her name like a house or a car”			
<p>Women’s financial rights after divorce</p> <p>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman’s role as wife and mother recognized as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the</p>	<p>Generally, upon divorce, a woman may be entitled to: (i) financial maintenance during the waiting period after the divorce (<i>iddah</i>); (ii) compensation if the former husband divorced her unreasonably. There is no legal concept of matrimonial assets.</p> <p>Articles 83 and 84 of the SPSL provide that a woman may be entitled to financial maintenance during the <i>iddah</i> period. A judge may rule for</p>	<p>Sharia Chamber Resolution 2093 dated 10/22/2000 Basis 518 Lawyers Magazine, Nos. 7-8 of 2002, p.707.</p> <p>Proceedings to demand the prompt return of the dowry are separate from the separation case.</p>		<p>Both spouses may agree on a formula for joint ownership of property after marriage, and any agreement between them is binding on both of them.⁶⁹</p>	<p>Many women give up their divorce financial rights to avoid the lengthy divorce proceedings that they will face.</p>

⁶⁹ Syria’ second periodic report to CEDAW, 25 October 2012, paragraph 233, p. 107, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSYR%2f2&Lang=en

<p>waiting period after the divorce (<i>iddah</i>)? Is she entitled to a consolatory gift or compensation upon divorce (<i>mut'ah</i>)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>financial maintenance for a maximum period of nine months.⁶⁶</p> <p>Article 117 of the SPSL provides that if a man divorces his wife and it appears to the judge that the husband was arbitrary in divorcing her and the wife will suffer distress and poverty from the divorce, the judge may award her compensation (<i>ta'wid</i>) against the former husband based on the extent of arbitrariness to be determined on a case-by-case basis.</p> <p>The total compensation cannot exceed three years' worth of maintenance. The judge may require the payment to be made in a lump sum or in monthly installments.⁶⁷</p>	<p>The dowry becomes due to a woman once the marriage contract is validated. However, the wife loses her right to half of the dowry if divorce occurs before the consummation of the marriage and lawful <i>khilwah</i> [lawful private meeting between husband and wife]. Otherwise, she can demand the dowry any time after lawful <i>khilwah</i> and she has the right to refrain from having intercourse with her husband until he pays the dowry.</p>			
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⁶⁶ Article 84 of the Syrian Personal Status Law No. 4 of (2019), <https://sana.sy/?p=892746>

⁶⁷ Article 117 of the Syrian Personal Status Law No. 4 (2019) ,<https://sana.sy/?p=892746>

<p>Women are not entitled to <i>Mut'ah</i> (or <i>Mataa'</i>, meaning alimony or a gift after divorce) in Syrian Law.</p>	<p>Following a divorce, the father is responsible for the financial maintenance of his children according to his means.⁶⁸ However, the law does not guarantee housing for the custodial mother and does not guarantee the right to remain in the family home.</p> <p>Upon divorce, a woman is entitled to her full prompt dowry, while her deferred dowry will be determined according to the level of culpability ascribed to either the husband or the wife. In the case of a '<i>khula</i>' [consensual conditioned divorce], the woman must renounce her dowry in order to obtain a divorce.</p> <p>Article 83 of the SPSL No. 59 of 1953 states:</p>				
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⁶⁸ Article 142 of the Syrian Personal Status Law (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

	<p>“At divorce, separation or dissolution of marriage, the husband is obliged to pay alimony for his wife in the waiting period.”</p> <p>Article 155 of the SPSL states:</p> <p>“1- If the child has no money, the father is responsible for the child's maintenance unless he is indigent and unable to pay or to earn a living due to a physical or mental disability.</p> <p>2- Support for the children shall continue until the female marries and the male reaches the level where his peers are earning funds;</p> <p>3- At divorce, the father shall maintain the children unless the wife waived child support in return for obtaining <i>khula</i>’.</p>				
<p>Custody of Children</p> <p>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided</p>	<p>Article 139 of the SPSL reads that custody right belongs first to the mother, then the father. Following the parents, custody falls to the maternal grandmother then to her mother then to the paternal grandmother then to her mother. Afterwards, custody will pursue</p>		<p>Syria’ <u>second periodic report</u> of 2012 says: “The Commission sponsors a weekly television discussion program on</p>		<p>According to information on the ground as well as media reports, many women in a bad marriage are hesitant to seek a divorce for fear of</p>

<p>based on the best interest of the child? Do mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to the father?</p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>the following order: the blood sister, stepsister on the mother' side, stepsister on the father' side, daughter of blood sister, mother's niece, father's niece, aunts from the mother's side, and aunts from the father's side. Then the custody goes to male relatives in the order of the succession of inheritance.⁷⁰</p> <p>The working mother shall not lose custody for her children as long as she can secure them an acceptable quality of life⁷¹. In this sequence and then for relatives from males that have right in inheritance except for the father</p>		<p>population policy topics and social and family issues (population growth, population policy, early marriage, marriage to relatives, girls' education, working women, etc.).⁷⁶</p>		<p>losing custody over their children due to economic reasons or as a result of the court awarding custody of the children to the father, which reportedly happen frequently.⁷⁷</p>
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⁷⁰ Paragraphs 1-2 of Article 139 of the Personal Status Law amended by Law No. 4 (2019), <https://sana.sy/?p=892746>

⁷¹ Paragraphs 1-2-3 of Article 137 of the Syrian Personal Status amended by Law No.20 (2019), <http://www.pministry.gov.sy/contents/14968/%D9%82%D8%A7%D9%86%D9%88%D9%86-20-%D8%A7%D9%84%D9%85%D8%AA%D8%B6%D9%85%D9%86--%D8%AA%D8%B9%D8%AF%D9%8A%D9%84-%D8%A8%D8%B9%D8%B6-%D8%A7%D9%84%D9%85%D9%88%D8%A7%D8%AF-%D9%85%D9%86-%D9%82%D8%A7%D9%86%D9%88%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->

⁷⁶ Syria' second periodic report to CEDAW, 25 October 2012, p.29, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSYR%2f2&Lang=en

⁷⁷ Mariam Nihal, "Women Fear losing Custody if They File for Divorce," *Arab News*, 17 December 2011, <http://www.arabnews.com/node/401246>

	<p>based on the succession of inheritance.⁷²</p> <p>The right of the work mother in custody does not fall because of her work if she is able to secure good life and care for them in an acceptable way.⁷³</p> <p><u>Article 137:</u></p> <p>The custodian must be eligible for the following conditions:</p> <ul style="list-style-type: none"> ● Sanity ● Maturity ● Clearance of dangerous infectious diseases. ● Ability to raise and take care of the child in his custody. ● Not previously sentenced for a crime of honor. 				
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⁷² Article 137.4 of the Syrian Personal Status Law amended by Law No. 20 of (2019), <http://www.pministry.gov.sy/contents/14968/%D9%82%D8%A7%D9%86%D9%88%D9%86-20-%D8%A7%D9%84%D9%85%D8%AA%D8%B6%D9%85%D9%86--%D8%AA%D8%B9%D8%AF%D9%8A%D9%84-%D8%A8%D8%B9%D8%B6-%D8%A7%D9%84%D9%85%D9%88%D8%A7%D8%AF-%D9%85%D9%86-%D9%82%D8%A7%D9%86%D9%88%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->

⁷³ Article 145 of the Syrian Personal Status Law (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

	<p>The custodian woman shall add to the conditions mentioned in paragraph /1/ of this article that she should not be married to a husband that is a stranger to the child in her custody unless the court decided the opposite for the benefit of the child in custody.</p> <p>The custodian man shall add to the conditions mentioned in paragraph /1/ of this article :To have a woman that is eligible for custody.</p> <p>The custody of the mother shall continue even if she is of a religion other than the religion of the father of the child in custody, unless she is proven to use the custody to raise the child with her religion. The custody of the mother shall fall if she follows a religion other than the religion of the father of the child when the child completes five years of age.</p> <p>A mother loses custody over her children if she remarries and her husband is not a close blood relative of the child. She also risks losing custody of the child if she is</p>				
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	<p>deemed disobedient and her child is over 5. In such instances, a judge may award custody to either spouse, taking into account the interest of the child.⁷⁴</p> <p>The custodian who refuses or fails to help the child complete the primary school will lose custody of him/her.</p> <p><u>Article 150:</u>⁷⁵</p> <ul style="list-style-type: none"> • None of the parents shall have the right to travel alone with the child outside the Syrian Arab Republic during marriage without the permission of the other parent, unless the trip is to the benefit of the child. This shall be decided by the judge with a judicial decision. 				
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⁷⁴ Article 170.4 of the Syrian Personal Status Law No. 59 (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

⁷⁵ Article 150 of the Syrian Personal Status Law amended by Article 1 of Law No. 4 (2019), <https://sana.sy/?p=892746>

	<ul style="list-style-type: none"> • None of the parents shall have the right to travel alone with the child outside the Syrian Arab Republic during custody period without the permission of the other parent, unless the trip is for the benefit of the child. This shall be decided by the judge. • The judge shall permit the custodian mother to travel with the child inside the Syrian Arab Republic to the town she lives in or works in, under the condition of benefitting the child in custody. <p>The grandmother from the mother's side has the same right given to the mother in paragraph 3 of this Article.</p>				
<p>Guardianship of Children</p> <p>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship</p>	<p>According to <u>Article 170</u>, guardianship over the minor's person and property shall be awarded to his father and then to his paternal grandfather, who shall be bound to undertake such guardianship. Other relatives, in the order of inheritance set out in article 21, shall have jurisdiction</p>	<p>Veto - No. 523, Basis 481, dated 12/12/1973, Lawyers Magazine, p. 346 of 1974:</p> <p>"If an agnatic guardian is not qualified to have</p>	<p>Syria's <u>second periodic report</u> says:</p> <p>The same rights and responsibilities with regard to guardianship, wardship, custody, and trusteeship of</p>		

<p>decided based on the best interest of the child?</p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>over the minor's person; however, without his/her property.⁷⁸</p> <p>Under no circumstances may either the father or the paternal grandfather give away a minor's property or benefits or sell or mortgage his real estate without the permission of the judge, who shall first ascertain that such action is justified, according to <u>Article 172</u> of the SPSL.⁷⁹</p> <p>A father has priority right over the guardianship of his children, followed by the paternal grandfather.⁸⁰</p> <p>Article 173 of the SPSL mandates a judge to assign some of the tasks of the guardian, with respect to his financial assets, to the woman who has custody of a minor, if after hearing statements from the</p>	<p>custody, the child shall stay with his mother. A female child is entitled to alimony until she gets married until he/she reaches the age of maturity. The child under custody must be supported (provided for) by his/her father. Support for the children shall continue until the female marries and the male reaches the age when his peers are earning funds.</p>	<p>children declare that the mother has custody and the father has guardianship. Trusteeship is assigned to male paternal relations and may be assigned to the mother with a judge's consent. Custody is granted for the most part to the mother, because she is concerned with the care of persons with special needs. Adoption is prohibited in Islam. It is replaced by <i>Kafala</i> under Islamic law. Christians undertake adoption</p>		
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⁷⁸ Article 170 of the Syrian Personal Status Law No. 59 (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

⁷⁹ Article 172 of the Syrian Personal Status Law No. 59 (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

⁸⁰ Article 173 of the Syrian Personal Status Law No. 59 (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

	<p>guardian, the judge determines that the minor's interests are at risk and a transfer is required to advance the interests of the minor.⁸¹</p> <p>A father must obtain the consent of custodian mother in order to travel with the child.⁸²</p>		<p>pursuant to their constitutionally protected rights.⁸³</p> <p><u>Concluding observations on the second periodic report of the Syrian Arab Republic-</u> Information provided by the Syrian Arab Republic following the concluding observations state: "Under the country's current circumstances, the Syrian judiciary</p>		
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⁸¹ Article 176 of the Syrian Personal Status Law amended by Law No. 4 (2019), <https://sana.sy/?p=892746>

⁸² Article 177 of the Syrian Personal Status Law No. 59 (1953), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

⁸³ Syria' second periodic report to CEDAW, 25 October 2012, pp. 106-107, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fSYR%2f2&Lang=en

			<p>grants temporary custody to the mother in the father's absence. It permits the mother to travel and move with her children inside and outside the territory of the Syrian Arab Republic without the consent of the children's guardian in order to protect the children's lives. During 2012-2014, the judiciary granted hundreds of Syrian mothers' temporary custody of their children in the</p>		
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			absence of the father.” ⁸⁴		
<p>Family Planning</p> <p>Do women require the consent of the husband to practice family planning, including abortions and sterilization in law or in practice?</p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12</p> <p>Paras. 21-23 GR21</p>	<p>The <u>Syrian Penal Code</u> prohibits and criminalizes abortion except in cases where the pregnant woman’s life is in danger.⁸⁵</p> <p><u>Article 524</u> of the Syrian Penal Code imposes penalty on anyone who sells or offers to sell any substance conducive to the prevention of pregnancy, who acquires the substance with a view to selling it or who facilitates its use in any way.⁸⁶</p> <p>Article 47 (b) of the Syrian Medicine Profession Regulation Act prohibits physicians from performing an abortion by any</p>		<p>The Government of Syria in its 2012 report to the CEDAW Committee said that that family planning decisions are taken jointly by married couples in Syria. A couple would agree on the number and spacing of children and birth control. The Syrian government emphasized that “in Syrian society, the institution of the</p>	<p>In practice, many organizations provide family planning methods.</p>	<p>According to World Bank data, the total fertility rate decreased from 7.5 children per woman in 1960 to 2.9 in 2015.⁸⁸</p> <p>According to the UN Population Division’s 2015 Trends in Contraceptive Use Worldwide:⁸⁹</p> <ul style="list-style-type: none"> • 58% of married

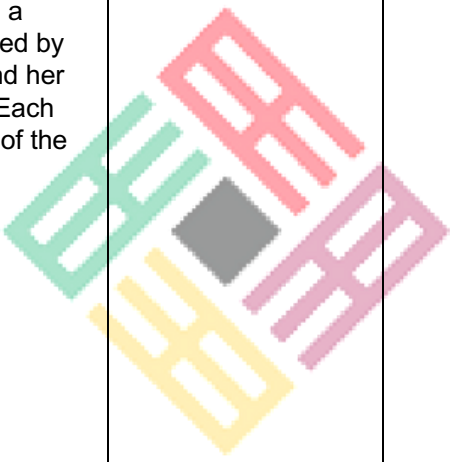
⁸⁴ Concluding observations on Syria’ second periodic report to CEDAW, 19 January 2016, p.6.

⁸⁵ Articles 525-528 of the Syrian Penal Code No. 148 (1949) <http://www.parliament.gov.sy/arabic/index.php?node=55151&cat=12278>

⁸⁶ Articles 524 of the Syrian Penal Code No. 148 (1949) <http://www.parliament.gov.sy/arabic/index.php?node=55151&cat=12278>

⁸⁸ The World Bank, “Fertility rates, total (births per woman)”, <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

⁸⁹ United Nations Population Division, “Trends in Contraceptive Use Worldwide 2015”, Annex Table 1, pp. 36-4, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

	<p>means, unless it is necessary to save a woman's life. The operation is decided upon the consent of at least two doctors, including the specialist who will perform the operation. Before initiating the operation, the specialist shall describe the urgent need for abortion in a report, which must be signed by the doctors, the patient, and her husband or her guardian. Each of them must keep a copy of the report.</p>		<p>family and life itself is a consensual partnership. It is not desirable for one partner to act separately or to dominate or control the other partner.”⁸⁷</p>		<p>women aged 15- 49 are using a method of contraception, with 41% of women using a modern method;</p> <ul style="list-style-type: none"> • 15% of married women aged 15- 49 have an unmet need for family planning services; and <p>57% of marriage women aged 15- 49 had their demands for family planning satisfied by modern methods of contraception.</p>
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⁸⁷ Syria' second periodic report to CEDAW, 25 October 2012, paragraph 61, p.20, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2fC%2fSYR%2f2&Lang=en

<p>Personal rights of spouses</p> <p>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman protect her personal rights through her marriage contract?</p>	<p>Article 33 of Constitution states that freedom shall be a sacred right and obligates the State to guarantee the personal freedom of its citizens.⁹⁰</p> <p>Article 38 of the Constitution guarantees the freedom of movement of all Syrians.⁹¹</p> <p>Article 40 of the Constitution declares work to be a right and duty for every citizen.⁹²</p>		<p>Syria has a reservation to Article 16(g) of CEDAW.⁹⁵</p> <p>The Government of Syrian in its 2005 report to the CEADW Committee informed that the Minister of the Interior issued a2002 directive stating that women are entitled to apply for a</p>	<p>The wife may stipulate in the marriage contract that she has the right to work, travel, study, etc. If the husband breaches a stated condition of the marriage contract, the woman has the right to petition a court for divorce.⁹⁸</p> <p>Married women in Syria retain</p>	<p>According to World Bank data, the female labor force participation decreased from 18% in 1990 to 12% in 2016.¹⁰⁰ During the same period the male labor force participation decreased from 81% to 71%.¹⁰¹</p> <p>According to the 2016 UNDP</p>
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⁹⁰ Article 33 of the Syria's Constitution (2012) https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

⁹¹ Article 38 of the Syria's Constitution (2012) https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

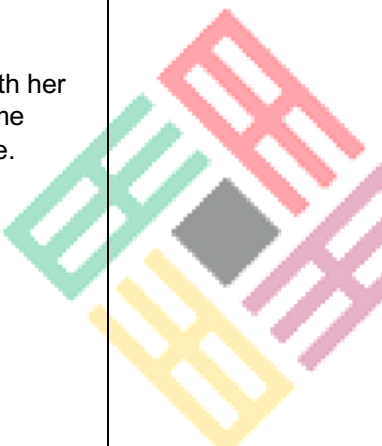
⁹² Article 40 of the Syria's Constitution (2012) https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

⁹⁵ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

⁹⁸ Article 14 of the Syrian Personal Status Law amended by Law No. 4 (2019), <https://sana.sy/?p=892746>

¹⁰⁰ Available at the link: The World Bank, "Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

¹⁰¹ Available at the link The World Bank, "Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>

<p><u>Applicable CEDAW Provision Article 16(1)(g)</u></p> <p>Para. 24 GR21</p> <p>Para. 34 GR29</p> <p>A woman has the right to retain her birth name upon marriage. However, her civil records will be moved to her husband's record entry.</p>	<p>Despite the constitutional provisions stating otherwise, the SPSL potentially restricts the personal rights of a married woman as a result of the maintenance-for-obedience legal framework provided for under the law. Thus:</p> <p>The wife <u>loses</u> her right to alimony:</p> <p>(1) If she refuses to live with her husband in the marital home without a legitimate excuse.</p>		<p>passport or its renewal, without her husband's consent.⁹⁶</p> <p>Paragraph 377 of the Syrian government's <u>second periodic report</u> of 2012 says: "Men and women are free to choose their mates, break off an engagement and impose conditions each deem to be in his or her interest. The <i>Kafa'a</i> (suitability) condition for marriage is considered to be in the interest of the</p>	<p>their family name. The man's family name is passed to the children.⁹⁹</p>	<p>Human Development Report:¹⁰²</p> <ul style="list-style-type: none"> • 35% of women over 25 have at least some secondary education as compared to 43% of men of the same age group; • 96% of females aged 15-24 are able to read and write a short simple sentence as compared to
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⁹⁶ Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 11, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

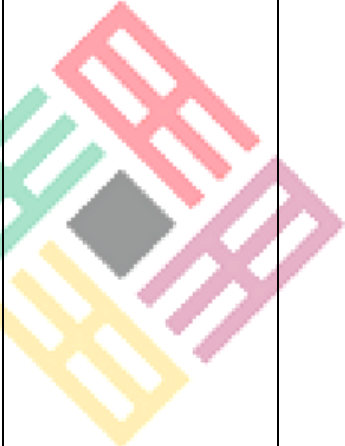
⁹⁹ Syria' second periodic report to CEDAW, 25 October 2012, paragraph 377, p.107, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSYR%2f2&Lang=en

¹⁰² UNDP, "Human Development Report 2016", Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, available at the link: http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

	<p>(2)If she works outside her home without the consent of her husband.⁹³</p> <p>It is apparent that the SPSL indirectly obliges the wife to obtain her husband's permission before starting work outside the home, otherwise, she will be denied alimony. The same Law allows the man to unilateral divorce, which reinforces men's supremacy and places wives under their husbands' subjugation.</p> <p>Moreover, Article 70 of the SPSL states: "The wife has to travel with her husband unless there is a condition in the contract that</p>		<p>woman. A marriage contract is valid only with a woman's consent. It may be concluded only with the signature of the man and the woman."⁹⁷</p>		<p>97% of males in the same age group;</p> <p>32% of women are satisfied with their freedom of choice as compared to 45% of men.</p>
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⁹³ Article 1 of Law No. 20, amending the Personal Status Law, 27 June 2019, <http://www.pministry.gov.sy/contents/14968/%D9%82%D8%A7%D9%86%D9%88%D9%86-20-%D8%A7%D9%84%D9%85%D8%AA%D8%B6%D9%85%D9%86--%D8%AA%D8%B9%D8%AF%D9%8A%D9%84-%D8%A8%D8%B9%D8%B6-%D8%A7%D9%84%D9%85%D9%88%D8%A7%D8%AF-%D9%85%D9%86-%D9%82%D8%A7%D9%86%D9%88%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->

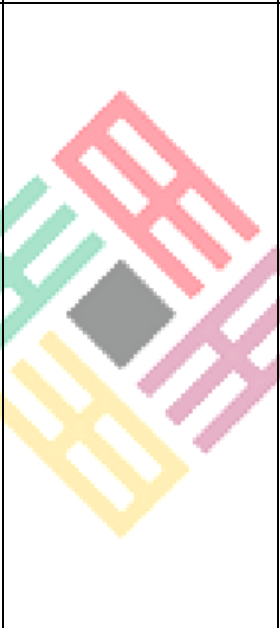
⁹⁷ Syria' second periodic report to CEDAW, 25 October 2012, pp. 106-107, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSYR%2f2&Lang=en

	<p>oppose this concept or if the judge finds a barrier for travel.”</p> <p>The SPSL gives husbands legal tools by which they confiscate their wives’ personal decisions.</p> <p><u>Article 14</u> of the SPSL, amended by Law No. 4 of 2019, states:</p> <ul style="list-style-type: none"> • Both husband and wife have the right to limit the marriage contract to special conditions provided that they do not contradict with Syrian law and Sharia. • If the contract is limited with a condition that contradicts its legitimate system or purposes, the condition will be void and the contract will be true. • No condition shall be counted unless explicitly stated in the marriage contract. <p>For the affected party of the couple when violating the correct</p>				
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	condition, he/she shall have the right to terminate the contract. ⁹⁴				
<p>Inheritance rights</p> <p>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate, or can the children agree to forgo their inheritance in favor of their mother upon the death of their father?</p>	<p>In terms of marital inheritance, women are not treated equally to men under Syrian law:</p> <p>a) If the couple has any children, the wife receives an eighth share of the inheritance from her deceased husband, while the husband receives a quarter share of the inheritance from his deceased wife.</p> <p>b) If the couple does not have children, the wife receives a quarter share of the inheritance from her deceased husband, while the husband receives a half share of the inheritance from his deceased wife.¹⁰³</p> <p>This applies to all forms of property except 'Amiri' lands</p>		<p>The Government of Syria in its 2012 report to the CEDAW Committee acknowledged that in some areas, women do not inherit land and therefore do not own land. This is despite the protection of this right under the Sharia and the law.</p> <p>The Syrian government cited negative customs as an obstacle to enforcing women's</p>	<p>A person may choose to write a will. A will can only be written with respect to one-third of the estate (unless the beneficiaries agree to otherwise).¹⁰²</p> <p>The will shall be valid for an heir upon other heirs' consent regardless of the share of inheritance prescribed.</p> <p>As for the Druze community, the will shall be valid</p>	


⁹⁴ Article 14 of the Syrian Personal Status Law amended by Law No. 4 (2019), <https://sana.sy/?p=892746>

¹⁰³ Article 268 of the Syrian Personal Status Law No. 59 (1935), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

<p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21</p> <p>Paras. 49-53 GR29</p>	<p>(state-owned lands), which are inherited in equal shares.</p>		<p>inheritance rights.¹⁰⁴</p>	<p>to an heir or a non-heir, and it is not limited to one-third of the estate.¹⁰⁵</p>	
<p>Violence against women in the family</p> <p>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape, and other forms of sexual assault and violence that affect a woman's mental health which are perpetuated by traditional attitudes? Is there specific legislation that recognizes domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid</p>	<p>In the legal system of Syria, there are no special laws on family, domestic violence, or gender-based violence. Cases related to these issues are arbitrated and adjudicated according to related provisions in the SPSL No.148 of 1949 and its amendments.</p> <p>The Syrian Penal Code No. 148 of 1949 defines a rapist as a person who has sexual intercourse with someone other than their spouse, so the Code does not specifically criminalize marital rape (see Articles 489 and 490). Moreover, Syria has not adopted specific legislation to criminalize acts of domestic</p>		<p>In its <u>report</u> submitted to the CEDAW Committee in 2012, the Syrian government indicated that many measures have been taken to counter violence against women. In this regard, the Syrian Commission for Family Affairs established a National Observatory to monitor cases of domestic violence and a Family</p>		<p>Women and girls faced a steady <u>increase</u> in the risks and forms of gender-based violence that affect them. The ongoing conflict, the deteriorating economic situation and the effects of the outbreak of the Covid-19 pandemic and the accompanying measures, such as movement restrictions and</p>

¹⁰⁴ Syria' second periodic report to CEDAW, 25 October 2012, paragraph 365, p.103, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSYR%2f2&Lang=en

¹⁰⁵ Articles 238-307 of the Syrian Personal Status Law No. 59 (1935), <http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

<p>punishment? Are there support services for women who are the victims of aggression or abuses?</p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19</p> <p>Para. 40 GR21</p> <p>There is no text in the SPSL that allows a husband to discipline his wife. However, Article 209 of the Personal Status Law of Qadri Basha states that the husband has the right to discipline his wife in a way that is not physically abusive.</p>	<p>violence. The Penal Code contains some general prohibitions that are applicable to domestic violence, including general assault and battery (Articles 540 et seq.)</p>		<p>Protection Unit to receive complaints. The Syrian Commission for Family Affairs conducted a quantitative study on domestic violence in 2008.¹⁰⁶ Training courses were held in cooperation with the Centre of Arab Woman for Training and Research (CAWTAR) on strengthening the capacities of providers of care and health and legal services to women. Many measures have been taken to counter violence against women. In</p>		<p>access to services, have made 2020 a difficult year, especially for women and girls.</p> <p>Feeling tension, fear and despair due to the daily incidents of gender-based violence caused women psychological trauma, which prompted many of them to commit suicide.¹⁰⁷</p>
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¹⁰⁶ Syria' second periodic report to CEDAW, 25 October 2012, p. 109 et seq.
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSYR%2f2&Lang=en

¹⁰⁷ UNFPA, "Overview of Gender-Based Violence in Syria - Advocacy brief 2021" <https://syria.unfpa.org/en/publications/overview-gender-based-violence-syria-advocacy-brief-2021-0>

<p>Article 508 of the Syrian Penal Code suspends the punishment for rape if the rapist marries his victim.</p>			<p>this regard, the Syrian Commission for Family Affairs established a National Observatory to monitor cases of domestic violence and a Family Protection Unit to receive complaints.</p> <p>The Good Shepherd Order opened a Centre for Listening and Legal, Psychological and Social Guidance for Victims of Domestic Violence in 2007. In 2008, the Good Shepherd Centre began to operate a confidential hotline that receives calls from family members who are</p>		
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			victims of domestic violence.		
<p>Nationality rights</p> <p>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</p> <p><u>Applicable CEDAW Provision Article 9</u> Para. 6 GR21</p>	<p>A Syrian man may pass his nationality to his non-Syrian wife if the marriage continues for at least two years, she is legally residing in the country, and the Minister of the Interior approves her application.¹⁰⁸ However, the law does not specifically provide for a Syrian woman to confer her nationality to her foreign husband.</p> <p>A Syrian woman who marries a non-Syrian shall keep her Syrian nationality unless she applies to acquire her husband's nationality (and the law to which her husband is subject gives her the right to</p>		<p>Syria <u>reserved</u> to CEDAW's Article 9.2 concerning the granting of a woman's nationality to her children.¹¹⁴</p> <p>Syria's second periodic report of 2012 provided that there is no contradiction between Article 9 and Islamic law. There is a major difference between a blood relationship, which</p>		<p>According to Institute on Statelessness and Inclusion and the Global Campaign for Equal Nationality Rights, the inability of Syrian women are unable to confer nationality on their foreign spouses potentially threatens the marital relationship and thus a child's right to know and be</p>

¹⁰⁸ Articles 8- 9 of the Syrian Nationality Law issued by legislation decree No. 276 (1969), <http://www.casi.gov.sy/node15/arabic/eindex.php?node=5518&cat=14816&nid=14816&print=1>

¹¹⁴ United Nations Treaty Collection Website available at the link: <https://treaties.un.org> https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-8&chapter=4&clang=en

	<p>acquire his nationality).¹⁰⁹ If she subsequently gets divorced, she may apply to restore her Syrian nationality by permission of the Minister of Interior.¹¹⁰</p> <p>If a Syrian man acquires a foreign nationality, his Syrian wife loses her nationality as well (if the law of the foreign country allows her to obtain her husband's nationality),¹¹¹ unless she applies to retain her Syrian nationality within one year of her husband's acquiring of the foreign nationality.¹¹²</p>		<p>is paternal under Islamic law, and nationality, which concerns the relationship of an individual to the State under man-made law.</p> <p>In the same report, Syria justified its reservation to CEDAW's Article 9 saying that Syria's reservation to this</p>		<p>cared for by his or her parents.¹¹⁶</p> <p>There have previously been several <u>initiatives</u> to reform Syria's nationality law. Most significantly, a bill was presented to Parliament in 2004 by the Syrian Women's League. In 2008 the Parliament voted against this</p>
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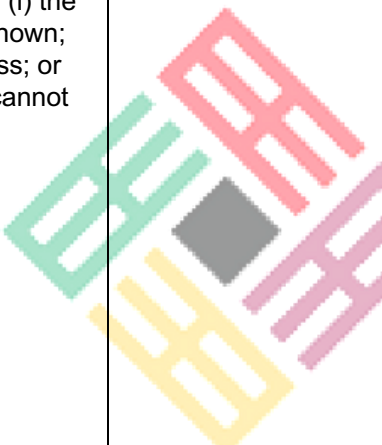
¹⁰⁹ Article 12 of the Syrian Nationality Law issued by legislation decree No. 276 (1969), <http://www.casi.gov.sy/node15/arabic/eindex.php?node=5518&cat=14816&nid=14816&print=1>

¹¹⁰ Articles 14 of the Syrian Nationality Law issued by legislation decree No. 276 (1969), <http://www.casi.gov.sy/node15/arabic/eindex.php?node=5518&cat=14816&nid=14816&print=1>

¹¹¹ Article 11 of the Syrian Nationality Law issued by legislation decree No. 276 (1969), <http://www.casi.gov.sy/node15/arabic/eindex.php?node=5518&cat=14816&nid=14816&print=1>

¹¹² Article 3 (a) of the Syrian Nationality Law issued by legislation decree No. 276 (1969), <http://www.casi.gov.sy/node15/arabic/eindex.php?node=5518&cat=14816&nid=14816&print=1>

¹¹⁶ Institute on Statelessness and Inclusion and The Global Campaign for Equal Nationality Rights, "Syrian Arab Republic", *Submission to the Human Rights Council at the 26th Session of the Universal Periodic Review*, 24 March 2016, para. 8, available at the link: <http://www.institutesi.org/SyriaUPR2016.pdf>

	<p>A Syrian father passes his citizenship to his children regardless of where they are born. Syrian nationality may only be granted to a child born to a Syrian mother if the child is born in Syrian and either: (i) the father's nationality is unknown; or (ii) the father is stateless; or (iii) the child's paternity cannot be legally established.¹¹³</p>		<p>article is based on patriotic, national considerations concerning Palestinian refugees' right of return to their homeland and need to preserve their identity. It is also based on the exigencies of the Israeli occupation of Arab lands and restrictions imposed by the occupation on citizens concerning marriage or contact with individuals under Israeli occupation. The impediment to granting Syrian</p>		<p>amendment on the basis that it was incompatible with Sharia law.</p> <p>However, in 2011, a new bill was presented to the new Parliament and a committee was formed to discuss it.¹¹⁷</p>
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¹¹³ Article 3 (b)-(c) of the Syrian Nationality Law issued by legislation decree No. 276 (1969), <http://www.casi.gov.sy/node15/arabic/eindex.php?node=5518&cat=14816&nid=14816&print=1>

¹¹⁷ Institute on Statelessness and Inclusion and The Global Campaign for Equal Nationality Rights, "Syrian Arab Republic", *Submission to the Human Rights Council at the 26th Session of the Universal Periodic Review*, 24 March 2016, para. 14, available at the link: <http://www.institutesi.org/SyriaUPR2016.pdf>

			<p>nationality to the children of Syrian women and non-Syrian fathers is related to sovereignty, not discrimination. However, the door is not absolutely shut regarding such cases. Rather, each case submitted to the concerned authorities is examined separately, and an appropriate decision is made.¹¹⁵</p>		
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¹¹⁵ Paragraphs 226-227-224 of Syria' second periodic report to CEDAW, 25 October 2012, p.61
https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSYR%2f2&Lang=en

ACCESS TO JUSTICE (please include sources to information as much as possible)

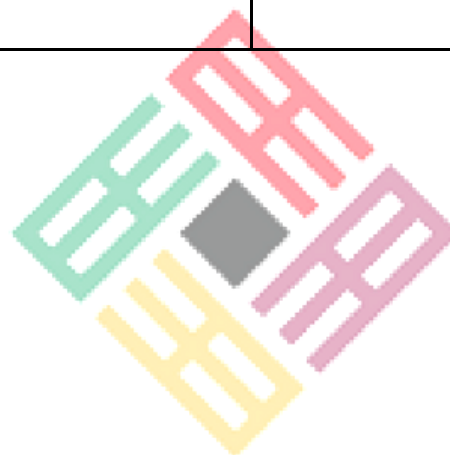
SYSTEM	PROCEDURES	CHALLENGES FOR WOMEN	GOOD PRACTICES IN COURT SYSTEM
<p>How are Muslim family law (i.e. marriage and family related) cases administered in your country? (E.g. Do you have a Quazi/Kadhi court system, family courts or civil courts?)</p> <p>Each Sharia court consists of a single judge assisted by a clerk (<i>Katib</i>). There are no family courts in Syria. The Druze community have special religious courts that regulate their civil matters.</p> <p>How many courthouses/court rooms around the country administer Muslim family law cases?</p> <p>There are no statistics on the number of Sharia and Mathhabia courts in Syria.</p> <p>Approximately, in Syria there are about 200 Sharia courts and two Mathhabia courts based in As Suwayda and Damascus countryside - Sahnaya.</p>	<p>Are the procedures pertaining to family matters (e.g. divorce, maintenance etc) defined in family law and/or are there guidelines/policies available for judges/Kadhis?</p> <p>The Syrian Civil Proceedings Law is the applicable to the sharia cases since the Syrian legal system has no special law or proceedings to regulate sharia matters and decide related cases.</p> <p>In general practice, do judges/Kadhis follow procedures?</p> <p>There is no special procedure law to follow in personal status cases, whether in Sharia courts or Mathhabia courts.</p>	<p>What are some key challenges that Muslim women face in accessing justice on family law matters?</p> <p>(E.g. lack of accessibility, costly and bad procedures, delayed processes, gender insensitive judges, etc?)</p> <ol style="list-style-type: none"> 1- Women's lack of access to financial resources often makes them unable to afford costs and expenses involved in pursuing claims of all kinds. 2- The difficult conditions for serving judicial notices, especially since many people are displaced from their home areas and there are areas out of government control. <p>The fact that there are many missing and kidnapped people who are unaccounted for.</p>	<p>Are there any good practices, procedures, or policies that you would like to share pertaining to how courts in your country deal with family law cases?</p> <p>(E.g. prioritizing certain types of cases, timely delivery of decisions, clear procedure, etc.)</p> <ol style="list-style-type: none"> 1- Judges deal with cases of child custody accurately and they carefully consider the interest of the child. 2- Sharia judges try their utmost to reconcile the spouses before deciding their divorce. 3- Sharia courts facilitate granting the mother temporary guardianship over children in the absence of her husband.

<p>If civil or Kadhi courts - what cases are handled by what courts?</p> <p>The Sharia courts deal with the Personal Status Cases of Muslims.</p> <p>The Mathhabia courts deal with the Personal Status Cases of the Druze.</p> <p>How many Muslim family law-related judges are there? Are there women working within the court system as judges/marriage registrars e.t.c?</p> <p>There are no female judges in the Syrian Sharia Courts. The reason why women cannot become Sharia judges is that a Sharia judge will act as the guardian of whoever has no guardian; a woman cannot serve as the guardian of a minor or as a marriage guardian.¹¹⁸</p>	<p>How much judicial discretion do judges/Kadhis have over marriage and family matters?</p> <p>Judges in Sharia and Mathhabia courts enjoy wide discretion in deciding marriage, divorce, custody, and guardianship cases.</p> <p>Are there appeal processes?</p> <p>The Syrian Sharia courts issue final judgments that can be appealed only before the Court of Cassation, which is a court of law, not a trial court, meaning it does not examine the root causes of conflict.¹²⁰</p>		
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¹¹⁸ Cardinal, Monique C. "Why Aren't Women Shari'a Court Judges? The Case of Syria." *Islamic Law and Society*, vol. 17, no. 2, 2010, pp. 185–214. JSTOR, <http://www.jstor.org/stable/25704008> . Accessed 5 Aug. 2022.

¹²⁰ Articles 251-489 of the Syrian Civil Proceedings Law No.1 (2016), <http://www.parliament.gov.sy/arabic/index.php?node=5556&cat=15810&>

<p>Do lawyers represent clients?</p> <p>Article 105 of the Syrian Civil Proceedings Law stipulates that litigants must be represented by lawyers before courts, except for the Sharia court where they can appear by themselves, yet not during claims of lineage, inheritance, and endowment.¹¹⁹</p>			
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¹¹⁹ Article 105 of the Syrian Civil Proceedings Law No.1 (2016), <http://www.parliament.gov.sy/arabic/index.php?node=5556&cat=15810&>