

SYRIA¹

OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated as at 20 January 2020)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p>Equality of spouses in marriage</p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise 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 uncoded, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g.</i></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 basis, 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 the political, economic, social and cultural life and also to remove the restrictions that prevent women's development and</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 1875.¹⁴</p>	<p>Syria has reservations to Articles 2, 9(2), 15(4), 16(1)(c), (d), (f) and (g), 16(2) and 29 of CEDAW. Reservations were made on the various provisions of Article 16 in so far as they are incompatible with <i>Shari'ah</i>.¹⁵</p> <p>The Government of Syria in its 2012 report to the CEDAW Committee asserted that:¹⁶</p>		<p>According to the 2016 UNDP Human Development Report, Iraq ranked 121 on the UNDP Human Development Index and 123 on the UNDP Gender Inequality Index.¹⁷</p> <p>According to a UN-FPA report, as a result of the Syrian conflict that has caused the death of many male figures who are the traditional heads of</p>

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.

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

¹⁴ 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

¹⁵ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹⁶ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 65, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁷ UNDP, "Human Development Report 2016", Table 5, pp. 214-217, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

<p><i>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?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<p>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 on removing material and social obstacles that hinder it. <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 of law 4/2019.⁵ In the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, based on Article 305 of the SPSL,</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 rights. The Syrian government further emphasised that; • Some articles of the SPSL are derived from religious texts which are quite difficult to amend in a conservative, largely religious society; • While international conventions supersede 		<p>household (e.g. husband, son or brother) almost one in every three households are headed by women.¹⁸</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

⁵ Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

¹⁸ 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>generally, the rules of Hanafi jurisprudence (<i>fiqh</i>) apply.⁶ 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 jurisdiction school of which it was derived.⁷</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 306-308.⁸ These matters are governed by the communities own laws and ecclesiastical courts.⁹</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>national laws, they do not supersede divine law and what it stipulates.</p>		
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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>

⁷ Personal Status Law, amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

⁸ 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>

⁹ 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_EvanEijk_26July%202013%20corr.pdf?sequence=20

	<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.¹⁰ Thus:¹¹</p> <ul style="list-style-type: none"> • Article 1 of law No.4/2019 (amending SPSL 59/1953) defines marriage is a contract between a man and a women by which sexual relations between them become licit and the purpose of which are the bond of a shared life and offspring.¹²; • 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"; • Article 72 provides maintenance for the wife shall be obligatory on the husband from the time of the valid contract, even if she is 				
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¹⁰ 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

¹¹ 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>

¹² Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

	<p>living in her family's house, unless the husband has asked her to move and she refused without right;</p> <ul style="list-style-type: none"> • Article 73 of law No. 4/2019 stipulates that a wife loses the right to spousal maintenance if a wife is disobedient (<i>nashiza</i>). She loses maintenance in the following situations; <ol style="list-style-type: none"> (1) If she refuses to make herself sexually unavailable to the husband, (2) if she refuses to move to the marital home, (3) if she leaves the marital home, (4) if she denies the husband access to the marital home, (5) if she refuses to travel with her husband and (6) if she works outside the home without her husbands marital permission explicitly or implicitly unless she has so stipulated in the marriage contract.¹³ 				
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¹³ Article 73, Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

<p>Minimum and equal legal age for marriage</p> <p><i>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? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>The legal age of marriage for both men and women is 18.¹⁹</p> <p>A male or female teenager of 15 years old will be granted the permission to marry if the judge ascertains the veracity of their petition, their physical readiness for marriage and their knowledge of spousal rights. If their guardian is the father or the grandfather, his consent to the marriage is required.²⁰</p> <p>Article 19 states that a judge may withhold his permission for marriage if he finds an incompatibility in age between the prospective bride and groom and if he can see no benefit in the marriage.²¹</p>		<p>Syria has a reservation to CEDAW Article 16(2) because the provision is viewed as incompatible with <i>Shari'ah</i>.²²</p> <p>The Syrian Government acknowledged that Article 18 of SPSL provides an avenue for guardians to give their girls in marriage at an early age, particularly in rural areas.²³</p> <p>In its 2012 report to the CEDAW Committee the Syrian government maintains that since “climate and type of nutrition accelerates</p>	<p>Marriage contracts are concluded before a competent officer who has the right to conduct the marriage, the competent officer being a local area judge. Prior to marriage, the parties must submit a request to the judge, and provide documents that prove each party’s civil status and age, for verification.²⁵</p>	<p>According to UNICEF’s State of the World’s Children 2016 report, 13% of women aged 20- 24 in Syria were first married by 18 and 3% by 15.²⁶</p> <p>According to the Syrian government, the average age for first marriage is 26 for females and 29 for males based on the 2009 Family Health Survey.²⁷</p> <p>According to Girls Not Brides and others, since the Syrian conflict began, child marriages are increasing “at an alarming rate”.²⁸</p>
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¹⁹ Article Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

²⁰ Article 18 Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

²¹ Article 19 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

²² United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&clang=en

²³ Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 105, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

²⁵ Article 40-43 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

²⁶ UNICEF, “The State of the World’s Children 2016”, Table 9, pp. 150-153, https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf

²⁷ 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>

²⁸ 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->

			<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.”²⁴</p>		<ul style="list-style-type: none"> • In 2011, 12% of registered marriages involved a girl below 18; 18% in 2012; 25% in 2013 and just under 32% in the first quarter of 2014; • More Syrian girls have been married below 17. Parents marry their young daughters because they believe their daughters will be protected and taken care of in an increasingly unstable and impoverished situation;
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[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-profession-als-network/2016/nov/06/the-young-refugee-girls-who-are-being-pushed-into-marriage-and-violent-relationships>
²⁴ 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>

					<ul style="list-style-type: none"> • Syrian girls aged 15-17 are marrying much older men: 16% married men 15 years older than themselves; 32% married men 10 to 14 years older; and 37% married men 5 to 9 years older; • Child brides face a wide range of social and health consequences, lack of education as well as higher rates of maternal mortality and violence; • The practice and impact of child marriage on Syrian girls is magnified among the Syrian refugee communities in the region e.g. Jordan, Lebanon.
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<p>Women’s consent to marriage</p> <p><i>Is a marriage valid without the woman’s consent? Is the practice of forcing women to marry against their will (ijbar) 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?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>Regardless of their age, both prospective brides and grooms must consent to the marriage.</p> <p>Article 5 of the SPSL provides that a marriage contract requires acceptance of both parties.²⁹</p> <p>Article 11(1) 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>The mandatory registration of marriages is provided for in Article 40(1) of the SPSL.³¹</p> <p>Article 31 of the Civil Status Law provides that in order for marriage to be considered legal, the marriage certificate must be with the Department of Civil Affairs in the governorate in which the marriage occurred.³²</p>		<p>The Government of Syria in its 2012 report to the CEDAW Committee acknowledged the difficulty it faces in enforcing marriage registration, especially of customary marriages performed outside of court. It cites a number of obstacles, including negative customs and traditions, insufficiency of training to husbands and wives regarding their rights, and the lack of family guidance centres.³⁵</p>	<p>The presence of two male witnesses (or one male and two females) is required to testify that the marriage was consented to between the husband and the wife.³⁶</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.³⁷ The procedure for registration of marriages in Syria is detailed in the website of the Norwegian Refugee Council and Institute</p>	<p>According to the Tahirih Justice Centre, ISIS fighters in Raqqa, northern Aleppo, and some border areas have reportedly subjected women and girls to forced marriages.⁴⁰</p> <p>According to academic research, while the law requires consent of both parties to the marriage contract, a minor is not truly able to object to it because the guardian contracts the marriage in the cases of minors. This is also one of the reasons it is difficult to enforce the minimum age for</p>
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²⁹ Article 5 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>
³⁰ Article 11(1) of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>
³¹ Article 40(1) of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>
³² Article 31 of the Civil Status Law (2007), <http://ashrfmmshrf.com/?p=199>
³⁵ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 379, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>
³⁶ Article 12 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>
³⁷ Articles 40-45 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>
⁴⁰ Tahirih Justice Centre, “Syria” *Forced marriages overseas*, <http://preventforcedmarriage.org/forced-marriage-overseas-syria/>

	<p>Article 67 of the Civil Status Law provides for a fine of 500 Syrian pounds or imprisonment of 10 days for those who fail to register a marriage.³³</p> <p>Non-registration of a marriage does not necessarily invalidate the marriage. 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 a pregnancy is apparent, the marriage will be recognised without the required produces.³⁴</p>			<p>on Statelessness and Inclusion.³⁸</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 in vulnerable situations in unregistered marriages. A marriage is not considered legal until recorded in the civil registers and children of an unregistered married cannot be registered unless the marriage of the parents is first registered.³⁹</p>	<p>marriage.⁴¹</p> <p>According to a media reports:⁴²</p> <ul style="list-style-type: none"> • In order to obtain a marriage certificate, the husband must be present at the civil office (which is difficult since many young Syrian men are abroad, in hiding, or too scared that they will be arrested if they enter the capital). The process for obtaining a marriage certificate, which costs 25 Syrian
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³³ Article 67 of the Civil Status Law (2007), <http://ashrfmmshrf.com/?p=199>

³⁴ Articles 40(2) of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 252-253,

https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

³⁸ Norwegian Refugee Council and Institute on Statelessness and Inclusion, "Civil Registration Procedures in Syria", <http://www.syrianationality.org/nationality-documentation-and-statelessness-in-syria/documents-issued-in-syria>

³⁹ Articles 28, 30-31 of the Civil Status Law (2007), <http://ashrfmmshrf.com/?p=199>

⁴¹ Sameena Nazir and Leigh Tompert (eds), "Women's Rights in the Middle East and North Africa: Citizenship and Justice", (USA: Rowman and Littlefield, 2005), p. 281, https://books.google.com/books/about/Women_s_Rights_in_the_Middle_East_and_No.html?id=5spje12_is4C

⁴² Mohammad Qara Ali, "Syria, Documenting Births, Marriages, and Deaths", *Institute for War and Peace Reporting*, 7 October 2016, <http://www.refworld.org/do->

					<p>pounds, has become very challenging, especially in opposition-controlled areas, where civil offices have been turned into religious institutions. In regime-controlled areas, marriage certificates are difficult to obtain outside of bribes;</p> <ul style="list-style-type: none"> • If a marriage is not registered, it makes it extremely difficult for a family to access aid from most local relief organisations in Syria.
<p>Women’s capacity to enter into marriage</p> <p><i>Is consent of a marital guardian (wali) required? If so, can a</i></p>	<p>If a women is 18 years old and wishes to marry, the judge asks her guardian for his opinion within a period that does not exceed 15</p>	<p>In 1956, the Court of Cassation held that the exact interpretation of the concept <i>kafaa</i> is to</p>			

[cid/57fe3a9ba88.html](https://www.news-deeply.com/syria/articles/2015/08/04/marriage-in-syria-difficulties-bribes-and-lack-of-recognition); Kamal Srouji, “Marriage in Syria: Difficulties, Brides and Lack of Recognition,” News Deeply, 4 August 2015, <https://www.news-deeply.com/syria/articles/2015/08/04/marriage-in-syria-difficulties-bribes-and-lack-of-recognition>

<p><i>woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? 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 circumstances e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>days. If the guardian does not object, or his objection are ill considered, the judge gives the permission for the marriage on the condition of compatibility between the spouses and the wife receiving the dower of her likes.⁴³</p> <p>Pursuant to Article 14 of law No. 4/2019, both spouses may stipulate any condition in their marriage contract so long as they do not contradict <i>Shari'ah</i> and the law. The stipulations have to be stated explicitly in the marriage contract and either spouse has the right to annulment of the contract if the valid stipulations are not upheld.⁴⁴</p>	<p>be determined at the discretion of the judge. Nevertheless, generally, it would appear that currently, the key elements of <i>kafaa</i> in marriage are parity in faith (<i>iman</i>) and financial means or wealth (<i>yasar</i> or <i>infaq</i>) between the two prospective parties. A groom's descent (<i>nasab</i>), his occupation or difference in social class is no longer relevant to the court.⁴⁵</p>			
<p>Polygamous marriages</p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the court required for a polygamous</i></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</p>		<p>The Government of Syria in its 2005 report to the CEDAW Committee said that "it should be pointed out that</p>	<p>A woman can stipulate in the marriage contract that if her husband takes on another wife, she has the</p>	<p>According to media reports, the ongoing war in Syria may be contributing to an increase in polygamous</p>

⁴³ Articles 20, Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 133-134, 250,

https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

⁴⁴ Article 14 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), p. 183, <https://goo.gl/AeQSDU>

⁴⁵ Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 134-135, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

<p><i>marriage? Is the permission of an existing 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 (misyar) recognised? 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?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>authorisation of a judge. A judge may only authorise the polygamous marriage if: (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" (<i>fasid</i>), but nonetheless stating that in such a marriage, whether or not the couple has consummated the marriage will be taken into account. If the marriage has been consummated after an invalid contract where the amount of the dower has not been</p>		<p>the system of polygamy was not established by Islam; on the contrary, Islam very narrowly defines and restricts polygamy to situations where there are a lot of orphans who are in need fathers to take care of them."⁵⁰</p>	<p>right to petition a court for divorce.⁵¹</p>	<p>marriages. As a greater number of men continue to be killed in Syria, women are making the decision to become someone's second wife. According to recent data, polygamous relationships accounted for 30% of marriages registered in Damascus in 2015, up from just 5% in 2010.⁵²</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</p>
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⁴⁶ Article 17 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), pp. 86, 170, <https://goo.gl/AeQSDU>

⁴⁷ Article 68 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁴⁸ Article 67 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁵⁰ Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 88, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁵¹ Article 14 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁵² Omer Karasapan, "The war and Syria's families", *Future Development*, 22 March 2017, <https://www.brookings.edu/blog/future-development/2017/03/22/the-war-and-syrias-families/>; AFP, "Polygamy and divorce on the rise in war-torn Syria", *The Economic Times*, 12 September 2016, <http://economictimes.indiatimes.com/news/international/world-news/polygamy-and-divorce-on-the-rise-in-war-torn-syria/articleshow/54285775.cms>

	stated then in such that wife is entitled to the dower normally received by her peers. If the dower has been defined in the invalid contract, then the wife is entitled to dower less than what has been stated. ⁴⁹				Jordanian government, 500 under-aged Syrian girls were married in temporary marriages in 2012. ⁵³
<p>Divorce rights</p> <p><i>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 be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not 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</i></p>	<p>The SPSL provides for three different mechanisms for divorce: (i) unilateral repudiation (<i>talaq</i>); (ii) judicial divorce; (iii) redemptive divorce (<i>mukhala'a</i> or <i>khul'</i>).⁵⁴</p> <p>A husband may unilaterally repudiate a marriage without many restrictions.⁵⁵</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 <i>talaq</i> upon herself (<i>talāq-i-tafwid</i>).⁵⁶</p> <p>Valid grounds for seeking a</p>				<p>According to academic research, while the wife's consent to <i>mukhala'a</i> must be voluntary, in practice women are sometimes pressured into seeking a <i>mukhala'a</i> divorce. It offers a husband a cheap way of obtaining a divorce, as he can evade paying post-divorce maintenance and any remaining</p>

⁴⁹ Articles 52, 63 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁵³ Tahirih Justice Centre, "Syria", *Forced marriages overseas*, <http://preventforcedmarriage.org/forced-marriage-overseas-syria/>

⁵⁴ Articles 87-117 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36> ; Law 4 of the Personal Status Law (2019) <https://sana.sy/?p=892746>

⁵⁵ Article 85-94 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 138, 257, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift EvanEijk 26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift%20EvanEijk%2026July%202013%20corr.pdf?sequence=20) ; Article 85 Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

⁵⁶ Article 87 Personal Status Law No. 4, amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>; 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](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift%20EvanEijk%2026July%202013%20corr.pdf?sequence=20)

<p><i>need to go to court, 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?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>judicial divorce by a wife include a husband's: (i) impotence or insanity; (ii) long-term absence or imprisonment; and (iii) failure to provide maintenance. In addition, both spouses may seek divorce on the basis of discord between the spouses.⁵⁷</p> <p>In the case of a divorce petition based on discord, the judge will seek to reconcile the spouses. If reconciliation is not possible and the husband or wife persists with the claim, the judge must then appoint two arbitrators (ideally one from each family). The arbitrators are required to conduct a series of reconciliation sessions. If they fail to achieve reconciliation, the arbitrators will submit a report with the reason for the disagreement, an opinion on the level of culpability ascribed to either the husband or the wife or both in order to determine the financial rights of each party and suggestions for how to dissolve the marriage. The marriage may be dissolved either by a simple <i>talaq</i> or where the wife appears primarily to be blamed, on the</p>				<p>dower costs normally associated with <i>talaq</i>.⁶¹</p>
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⁵⁷ Articles 105-112 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Law 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

⁶¹ 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>basis of some monetary amount that she must provide the husband.⁵⁸</p> <p>A wife may seek redemptive divorce (<i>mukhala'a</i> or <i>khul'</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.⁵⁹</p> <p>The mandatory registration of a divorce is provided for in Articles 30-31 of the Civil Status Law.⁶⁰</p>				
<p>Women's financial rights after divorce</p> <p><i>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 recognised as contribution to the acquisition of assets? What</i></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>Article 84 of the SPSL provide</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.⁶⁵</p>	<p>According to academic research and information on the ground, women are sometimes forced to give up custody of their children for economic reasons because.⁶⁶</p>

⁵⁸ Articles 112-115 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Article 96-102 law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 260, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

⁵⁹ Articles 95-104 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 139-140, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

⁶⁰ Articles 30-31 of the Civil Status Law (2007), <http://ashrfmmshrf.com/?p=199>

⁶⁵ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 377(h), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁶⁶ Information obtained from Syrian expert, February 2017

<p><i>spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut'ah)? 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?</i></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>that a woman may be entitled to financial maintenance during the <i>iddah</i> period. A judge may rule for financial maintenance for a maximum period that does not exceed one year.⁶²</p> <p>Article 117 of the SPSL provides that if a man divorces his wife for no reasonable reason and without her request, she is entitled to compensation from her ex-husband up to three years' worth of maintenance for her likes. The judge may require the payment to be made in a lump sum or in monthly instalments.⁶³</p> <p>Following a divorce, the father is responsible for the financial maintenance of his children according to his means.⁶⁴ However, the law does not guarantee housing for the custodial mother and does not guarantee the right to remain in the family home.</p>				<ul style="list-style-type: none"> • Following a divorce, the woman cannot remain in the family house when it is registered to the husband, even if she has full custody of the children; • It can take a very long time to make the husband pay even the small sum of court-ordered maintenance for the wife and children when they are with the mother. <p>Therefore, it is important for a mother who seeks divorce to know that she can fall back on her family members for financial support, if she intends to take</p>
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⁶² Articles 84, Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

⁶³ Article 117, Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>; Lynn Welchman, "Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy", (Amsterdam: Amsterdam University Press, 2007), p. 187, <https://goo.gl/AeQSDU>

⁶⁴ Article 142 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

					care of the children. ⁶⁷
<p>Custody of Children</p> <p><i>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 based on the best interest of the child? Do mothers automatically lose custody upon re-marriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A mother (followed by the maternal grandmother, paternal grandmother, etc.) has priority right over the custody of her children until they reach 15 (daughter or son).⁶⁸ Thereafter, custody reverts to the father.⁶⁹</p> <p>A mother does not lose custody if she goes out to work as long as she is able to provide good care.⁷⁰</p> <p>A mother loses custody over her children if she remarries and her husband is not a close blood relative of the child.⁷¹ She also risks losing custody of the child if she is 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.⁷²</p> <p>Following a divorce, the judge</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 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.⁷⁴</p>

⁶⁷ Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 142, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

⁶⁸ Articles 146, Personal Status Law No 4 of 2019 <https://sana.sy/?p=892746>

⁶⁹ Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 142, https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20

⁷⁰ Article 139 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁷¹ Article 138 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁷² Article 145 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁷⁴ Information obtained from Syrian expert, February 2017; Mariam Nihal, "Women Fear losing Custody if They File for Divorce," *Arab News*, 17 December 2011, <http://www.arabnews.com/node/401246>

	<p>may grant the custodian mother to travel with the child inside Syria: (i) to the town where she lives; or (ii) where she works in any of the state organizations, provided that the best interest of the child is materialized.⁷³</p>				
<p>Guardianship of Children</p> <p><i>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 decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A father has priority right over the guardianship of his children, followed by the paternal grandfather.⁷⁵</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 guardian, the judge determines that the minor's interests are at risk and a transfer is required to advance the interests of the minor.⁷⁶</p> <p>A father must obtain the consent of custodian mother in order to travel with the child.⁷⁷</p>				
<p>Family Planning</p> <p><i>Do women require the consent of</i></p>	<p>Abortion is strictly prohibited by law, except when it is necessary to</p>		<p>The Government of Syria in its 2012 report to the</p>		<p>According to World Bank data, the total fertility rate</p>

⁷³ Article 150 of Personal Status Law No 4 of 2019 <https://sana.sy/?p=892746>

⁷⁵ Article 170 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁷⁶ Article 173 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁷⁷ Articles 149-150 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<p><i>the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>save the pregnant woman's life.⁷⁸</p>		<p>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 emphasised that "in Syrian society, the institution of the 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."⁷⁹</p>	<p>decreased from 7.5 children per woman in 1960 to 2.9 in 2015.⁸⁰</p> <p>According to the UN Population Division's 2015 Trends in Contraceptive Use Worldwide:⁸¹</p> <ul style="list-style-type: none"> • 58% of married women aged 15-49 are using a method of contraception, with 41% of women using a modern method; • 15% of married women aged 15-49 have an unmet need for family planning services;
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⁷⁸ Article 527 of the Penal Code (1949), http://www.moj.gov.sy/index.php?option=com_content&view=article&id=11%3A2013-10-01-20-45-36&catid=3%3Acriminalgroup&Itemid=6; Centre for Reproductive Rights, "The World's Abortion Laws", 2014, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF>

⁷⁹ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 61, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁸⁰ The World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

⁸¹ United Nations Population Division, "Trends in Contraceptive Use Worldwide 2015", Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

					<p>and</p> <ul style="list-style-type: none"> • 57% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception. <p>According to information on the ground, although contraceptives are free from government clinics, they are not given without the husband's approval.⁸²</p>
<p>Personal rights of spouses</p> <p><i>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</i></p>	<p>Article 33 of Constitution states that freedom shall be a sacred right and obligates the State to guarantee the personal freedom of citizens.⁸³</p>		<p>Syria has a reservation to Article 16(g) of CEDAW.⁸⁷</p> <p>The Government of Syrian in its 2005 report to the</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</p>	<p>According to World Bank data, the female labour force participation decreased from 18% in 1990 to 12% in 2016.⁹¹ During the</p>

⁸² Information obtained from Syrian expert, February 2017

⁸³ Article 33 of Syria's Constitution (2012), https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

⁸⁷ United Nations Treaty Collection Website, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsq_no=IV-8&chapter=4&clang=en

⁹¹ The World Bank, "Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)",

<p><i>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?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>Article 38 of the Constitution guarantees the freedom of movement of all Syrians.⁸⁴</p> <p>Article 40 of the Constitution declares work to be right and duty for every citizen.⁸⁵</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 a wife loses the right to spousal maintenance in the following reasons:⁸⁶</p> <ol style="list-style-type: none"> 1. If she refuses to make herself sexually unavailable to the husband, 2. if she refuses to move to the marital home, 		<p>CEADW Committee informed that the Minister of the Interior issued a 2002 directive stating that women are entitled to apply for a passport or its renewal, without her husband's consent.⁸⁸</p>	<p>condition of the marriage contract, the woman has the right to petition a court for divorce.⁸⁹</p> <p>Married women in Syria retain their family name. The man's family name is passed to the children.⁹⁰</p>	<p>same period the male labour force participation decreased from 81% to 71%.⁹²</p> <p>According to the 2016 UNDP Human Development Report:⁹³</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
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<http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

⁸⁴ Article 38 of Syria's Constitution (2012), https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

⁸⁵ Article 40 of Syria's Constitution (2012), https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

⁸⁶ Article 73 Personal Status Law No. 4 amending Personal Status Law of 1953 (2019) <https://sana.sy/?p=892746>

⁸⁸ Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 11, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁸⁹ Article 14 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁹⁰ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), paras. 366, 377(g), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁹² 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>

⁹³ UNDP, "Human Development Report 2016", Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf

	<ol style="list-style-type: none"> 3. if she leaves the marital home, if she denies the husband access to the marital home, 4. if she refuses to travel with her husband and 5. if she works outside the home without her husbands marital permission explicitly or implicitly unless she has so stipulated in the marriage contract. 				<p>write a short simple sentence as compared to 97% of males in the same age group;</p> <ul style="list-style-type: none"> • 32% of women are satisfied with their freedom of choice as compared to 45% of men.
<p>Inheritance rights</p> <p><i>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 favour of their mother upon the death of their father?</i></p>	<p>Generally, inheritance rights between women and men are unequal. Articles 260-299 of the SPSL details the inheritance shares of the beneficiaries, which is based on <i>Shari'ah</i>.⁹⁴ In many instances, for example in the case of a widow and widower, a woman is entitled to half the share of a man.⁹⁵</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 <i>Shari'ah</i> and the law. The Syrian government cited negative customs as an</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).⁹⁷</p> <p>Current laws and procedures do not address the issue of agreement by beneficiaries to distribute a deceased's assets in equal shares, but</p>	

⁹⁴ Articles 260-299 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), pp. 98-101, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁹⁵ Article 268 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

⁹⁷ Article 218 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<p><u>Applicable CEDAW Provision</u> Paras. 34-35 GR21 Paras. 49-53 GR29</p>			<p>obstacle to enforcing women's inheritance rights.⁹⁶</p>	<p>there are multiple <i>fiqh</i> arguments that permit such division by mutual consent of all beneficiaries.⁹⁸</p>	
<p>Violence against women in the family</p> <p><i>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 recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are</i></p>	<p>Article 33 of Constitution obligates the State to preserve the dignity and security of all Syrians.⁹⁹</p> <p>Syria has not adopted specific legislation to criminalise acts of domestic violence.¹⁰⁰</p> <p>The Criminal Code contains some general prohibitions that are applicable to domestic violence, including general assault and battery.</p> <p>The Penal Code does not specifically criminalise marital rape.¹⁰¹</p>		<p>The Government of Syria in its 2012 report to the CEDAW Committee informed that many measures have been taken to counter violence against women. The Syrian Commission for Family Affairs for instance, established a National Observatory to monitor cases of domestic violence</p>		<p>Based on a number of civil society and media reports, Syrian women are reporting that domestic violence and sexual violence has intensified since the conflict began in 2011. The situation is aggravated in refugee camps.¹⁰³</p>

⁹⁶ Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 365, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

⁹⁸ Fatwa 137741 with Respect to Agreement of Beneficiaries on Distribution, 13 July 2010, <http://fatwa.islamweb.net/fatwa/index.php?page=showfatwa&Option=Fatwald&Id=137741>

⁹⁹ Article 33 of Syria's Constitution (2012), https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en

¹⁰⁰ OECD Development Centre, "Syrian Arab Republic", *Social Institutions and Gender Index*, p. 4, <http://www.genderindex.org/sites/default/files/datasheets/SY.pdf>

¹⁰¹ Articles 489, 502 of the Penal Code (1949), http://www.moj.gov.sy/index.php?option=com_content&view=article&id=11%3A2013-10-01-20-45-36&catid=3%3Acriminalgroup&Itemid=6; Alia Ahmad and Mais Istanbuli, "Syrian Women Recount Domestic Abuse During Civil War", *News Deeply*, 30 July 2015, <https://www.newsdeeply.com/syria/articles/2015/07/30/syrian-women-recount-domestic-abuse-during-civil-war>

¹⁰³ Badael Foundation et al, "Violations against women in Syria and the disproportionate impact of the conflict on them", *Submission to the Human Rights Council at the 26th Session of the Universal Periodic Review*, November 2016, http://wilpf.org/wp-content/uploads/2016/06/WILPF_VAW_HC-2016_WEB-ONEPAGE.pdf; Allison Harvey, "UN Inaction and Rape as a Weapon of War in Syria", *Harvard Health Policy Review*, 1 September 2015, <http://www.hhpronline.org/articles/2016/11/12/un-inaction-and-rape-as-a-weapon-of-war-in-syria>; Alia Ahmad and Mais Istanbuli, "Syrian Women Recount Domestic Abuse during Civil War", *News Deeply*, 30 July 2015, <https://www.newsdeeply.com/syria/articles/2015/07/30/syrian-women-recount-domestic-abuse-during-civil-war>; Phoebe Greenwood, "Rape and domestic violence follows Syrian women into refugee camps", *Guardian*, 24 July 2013, <https://www.theguardian.com/world/2013/jul/25/rape-violence-syria-women-refugee-camp>

<p><i>there support services for women who are the victims of aggression or abuses?</i></p> <p><u>Applicable CEDAW Provision</u> GRs 12 & 19 Para. 40 GR21</p>	<ul style="list-style-type: none"> • Article 489 of the Penal Code on rape excludes marital rape; • Article 502 of the Penal Code exempts a rapist from punishment if he marries his victim 		<p>and a Family Protection Unit to receive complaints. A 2008 survey on domestic showed that some women are subject to physical violence to varying degrees.¹⁰²</p>		
<p>Nationality rights</p> <p><i>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?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 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.¹⁰⁴ 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 acquire his nationality).¹⁰⁵ If she subsequently gets divorced, she may apply to restore her</p>		<p>Syria has a reservation to Article 9(2) of CEDAW concerning the mother's right to pass on her nationality to her children.¹¹⁰</p> <p>The Government of Syria in its 2005 report to the CEDAW Committee acknowledges that since women can only transmit nationally under limited circumstances, it is clear "women are</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 cared for by his or her parents.¹¹²</p>

¹⁰² Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), paras. 388-389 , <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

¹⁰⁴ Articles 8, 9 of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>

¹⁰⁵ Article 12 of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>

¹¹⁰ United Nations Treaty Collection Website: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en

¹¹² 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, paras. 8, <http://www.institutesi.org/SyriaUPR2016.pdf>

	<p>Syrian nationality by permission of the Minister of Interior.¹⁰⁶</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), unless she applies to retain her Syrian nationality within one year of her husband's acquiring of the foreign nationality.¹⁰⁷</p> <p>A Syrian father passes his citizenship to his children regardless of where they are born.¹⁰⁸ 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.¹⁰⁹</p>		<p>not treated equally as men in regard to this right."¹¹¹</p>		
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¹⁰⁶ Article 14 of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>
¹⁰⁷ Article 11 of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>
¹⁰⁸ Article 3(a) of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>
¹⁰⁹ Articles 3(b) 3(c) of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>
¹¹¹ Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 44, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>