

Situation report on discriminations against women in Syria



March 2023

INTERNATIONAL AND REGIONAL INSTRUMENTS

Convention on the Elimination
of All Forms of Discrimination
against Women (CEDAW) and
Optional Protocol

2003

Acceded

2014

Optional protocol
not signed

Council of Europe
Convention on preventing
and combating violence
against women and
domestic violence (known
as Istanbul Convention)

Not Applicable

Protocol to the African Charter
on Human and Peoples' Rights
on the Rights of Women in
Africa (Maputo Protocol)

Not Applicable

International Covenant on
Civil and Political Rights

1969

Acceded

International Covenant on
Economic, Social and
Cultural Rights

1969

Acceded

MAIN OBSTACLES TO GENDER EQUALITY DE JURE AND DE FACTO



Lack of civil and
familial rights



No existing laws to protect women
from violence. No harmonisation of
laws with international standards. No
monitoring on the perpetration of
violence against women.



Conflict context and impunity leading
to murder, arbitrary detention,
enforced disappearance and sexual
violence against women and
marginalised groups in Syria.



Unrecognised and unequal
participation in the labour force

RECOMMENDATIONS

Immediate and complete cessation of arbitrary detention, enforced disappearances, extrajudicial killing and the perpetration of all forms of sexual violence.

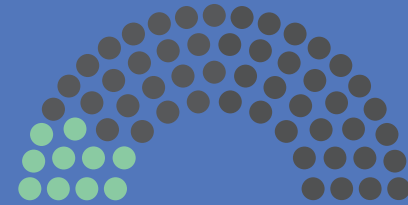
Seek accountability for perpetrators of human rights abuses, and repeal legislation that grants security and police service immunity in relation to crimes they may perpetuate while on duty.

Withdraw, fully and without conditions, Syria's reservations to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

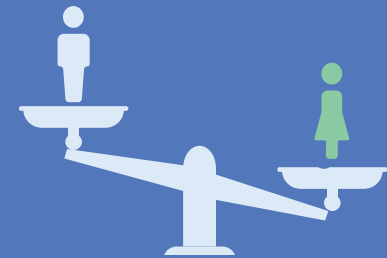
Harmonise existing domestic legislation with Universal Declaration of Human Rights and CEDAW and its prevalence over domestic law.

Did you know?

11.2%
Proportion of seats held by women in
national parliaments



**Unequal
rights**
Inheritance rights for
widows and daughters



15,7%
Female labour force participation



Prevalence of gender violence in
lifetime (% women)

**Data not
available**

*Source: Gender global gap report 2022:
<https://www.weforum.org/reports/global-gender-gap-report-2022/>

1. LEGISLATIVE FRAMEWORK

International conventions

Pursuant to Decree-Law No. 330 of 25 September 2002, the Syrian Arab Republic ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), but placed reservations on Article 2 in its entirety; Article 9, paragraph 2 on granting children the nationality of their mother; Article 15, paragraph 4 concerning the freedom of movement and choice of domicile and residence; Article 16, first Item, paragraphs (c, d, f and g) on the equality of rights and duties between spouses during marriage and upon its dissolution with regard to guardianship, kinship, maintenance and adoption; Article 16, second Item on the legal effect of the betrothal and marriage of a child, given the incompatibility with provisions of the Islamic law (Shariah), as stated in the Decree; and article 29, paragraph 1, on arbitration between countries in the event of a dispute between them.

Syria has not ratified the Optional Protocol to the Convention. In 2014, Syria submitted its most recent CEDAW report.

The Legislative Decree No. 230, issued on 16 July 2017, withdrew the Syrian Arab Republic's reservations to Article 2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and ratified Syria's accession to CEDAW Convention by virtue of Decree-Law No. 330 of 25 September 2002, in a manner consistent with the provisions of the Islamic Shariah.

The Syrian Arab Republic is party to the following international conventions which concern women's rights :

- The Slavery Convention of 1926, amended in 1953 (Syria acceded in 1931).
- The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1958).
- The International Covenant on Economic, Social and Cultural Rights of 21 April 1969.
- The International Covenant on Civil and Political Rights, ratified on 21 April 1969.
- The International Convention on the Elimination of All Forms of Racial Discrimination, ratified on 21 April 1969 with reservations.¹
- The International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted on 18 June 1976.
- The four Geneva Conventions, ratified on 2 October 1953, and the Additional Protocol I, ratified on 14 November 1983.
- The Convention on the Rights of the Child, which was ratified on 15 July 1993, and the Optional Protocol to the Convention on the Rights of the Child, ratified on 17 October 2003.
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 August 2004 with reservations.²
- The UN Convention against Transnational Organized Crime, ratified on 8 April 2009.
- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Crime, ratified on 8 April 2009.

- The Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the UN Convention against Transnational Organised Crime, which was adopted on 8 April 2009.
- The Convention on the Rights of Persons with Disabilities and its Additional Protocol, both ratified on 10 January 2009 with reservations.³
- 58 conventions on workers' rights and trade union freedoms, which were adopted under the International Labour Organisation (ILO).
- The Arab Charter on Human Rights of 15 September 1997.
- The Arab labour conventions, especially No. 1 on women workers and No. 6 on labour levels.
- The Convention on the Elimination of All Forms of Discrimination against Women, adopted on 28 March 2003 with reservations.

Constitutional Equality

The existing Syrian Constitution contains no clear-cut articles on equality between men and women, but rather provides for equality and the prohibition of gender-based discrimination as one of a set of prohibited criteria of discrimination. However, Article 23 of the Constitution states: "the state shall provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life.

The state shall work on removing the restrictions that prevent their development and participation in building society". The Constitution does not, in fact, guarantee the prohibition and criminalisation of discrimination and violence against women. Moreover, Article

2 of the Constitution, stating that the personal status of religious communities "shall be protected and respected", provides and ensures a social immunity to forms of discrimination against women, taking it out of the general debate by associating it with religion or religious identity.

Civil and Familial Rights

The Personal Status Law, promulgated under the Legislative Decree No. 59 of 1953, its Explanatory Notes and amendments regulate marriage, family relations, engagement, divorce, alms, inheritance and matters of childbirth. While this Law is based on the provisions of Islamic law (Shariah), some matters related to Christians, Jewish and Druze communities are being exempted from its application, as described in articles 306, 307 and 308.

Despite frequent amendments, the Law still contains discriminatory provisions with respect to inheritance, the minimum legal age of marriage, marriage consent, equality in divorce and transfer-rights-based discrimination.

Political Rights

Article 1 of the General Election Law No. 5 of 7 March 2014 stipulates that "every citizen [who] wishes to nominate himself for the office of President of the Republic, the membership of the People's Assembly, or the membership of the local governing bodies" may do so, and Article 4 states that "every citizen who is 18 years of age shall have the right to vote or referendum, unless he or she is deprived of this

right or suspended in accordance with the provisions of this Act”.

While the Election Law guarantees an apparent equality, the Syrian legislation contains a structural discrimination depriving women from participating in political life on several levels. In this respect, Article 84 of the existing Constitution, which determines the requirements to run for the office of the president of the Republic, contains a contradiction to the Constitution itself, which provides for equality and non-gender-discrimination among citizens. This Article requires masculinity in the presidential race, although not explicitly mentioned: it stipulates that a candidate for the office of President of the Republic “should not be married to a non-Syrian wife”, which makes it impossible for a woman to run for the office.

Sexual and Reproductive Rights

Syrian legislative authority takes a hard-line stance on abortion under the Penal Code. The Legislator makes no difference between the process of initiating and performing an abortion. It, therefore, does not differentiate between abortion at the start or end of pregnancy. Moreover, this law includes punishment for purchasing, promoting or facilitating the use of abortifacients or even putting pre-prepared substances that induce abortion up for sale. The legislative authority takes, by virtue of Article 524, a firm stance on the sale and promotion of pre-prepared contraceptive products and shows no leniency toward the use of such substances.

Article 520 of the Penal Code criminalises homosexual conducts: “any unnatural sexual intercourse shall be punished with a term of imprisonment of up to three years”. This applies to sexual intercourse

between two men or women, according to case law of the Criminal Chamber of the Syrian Court of Cassation.⁴ Although it is now suspended (i.e., it has not been applied for a long time), this Article itself is likely to promote unfavourable stances and provoke violence against LGBTQI+ persons more broadly. The case law considered any same-sex relation an act of indecency: “an immoral behaviour is not restricted to anal penetration or vaginal intromission; it also includes any act directed against the person in a place such that his or her honour or modesty is adversely affected, such as touching the pubic area with the genital organ or a similar act of a kind deemed, in the view of society, to constitute immoral behaviour”.

Laws on Gender-Based Violence/Violence against Women

The Syrian Law contains no special paragraphs referring to violence against women and gender-based violence. The legal vacuum, non-criminalisation and absolute immunity from prosecution for crimes committed against civilians enjoyed by military and security authorities bring about a rise in gender-based violence along two parallel lines. First, the violence carried out by authorities within the framework of practices and policies applied by parties to a dispute and de-facto authorities, each in its area of control, with the aim of instilling terror, humiliating and exerting pressure on the other side, or to intimidating and resorting to the practice of forced displacement. Acts of gender-based violence include harassment at checkpoints, sexual violence during house searches for wanted persons, arrests of women and kidnapping girls to get their husbands or family members to surrender.

Economic and Social Rights

The Syrian legislation contains no discriminatory laws with respect to the rights of women in the workplace. Labour Law No. 17 of 2010 and the Basic Law on State Employees provide for equal pay without discrimination on the grounds of sex. Under this law, women enjoy the right to have access to social security on an equal footing with men.

Vulnerable and/or Marginalised Populations

For women with disabilities, the Persons with Disabilities Law No. 34 of 2004 includes no special provisions related to women.

Women engaging in sex work: Articles 509 and 516, found in section II of the Syrian Penal Code, entitled “Incitement to debauchery”, consider paid prostitution an illegal act. Article 513 of the Syrian Penal Code punishes women who turn to sex work as a profession to earn a living with imprisonment for a term of six months to two years, whereas Article 509 stipulates that a woman who practices secret prostitution should be subject to a heavier sentence of between three months and three years. The Anti-Prostitution Law No. 10 of 1961 criminalises the practice of prostitution.

No protection is conferred to LBTQI+ women and their rights are not being recognised. These categories of women are victims of criminalisation and do not enjoy any special provisions. There are no special provisions for internally displaced and refugee women in Syria under Syrian legislation.

2. DE FACTO DISCRIMINATION

Civil and Familial Rights

Given the absence of political and legislative will to come up with a unified family law in Syria, the existing Personal Status Laws promote, albeit disproportionately, discrimination against women and girls, and contribute to deepening societal discrimination against them. For instance, the Syrian Personal Status Law entrenches discrimination between women and men in inheritance. Women in rural and urban communities in Syria are completely deprived of their right to inherit, and inheritance is being distributed exclusively among male members of the family.

Political Rights

According to the provisions of Decree No. 208 of 2020, containing the names of the members elected to the People’s Assembly of Syria, only 11% of the seats are held by women, i.e., 28 seats out of 250 in this Chamber. This is one of the lowest representation rates at the international and regional levels. For example, in 2020, the percentage in the Saudi parliament was 19.9% and Afghanistan 27%. Discrimination is evident in the membership of the People’s Assembly due to the nature of the electoral process, controlled by the ruling Baath Party and the National Progressive Front.

The Ba’ath Party nominates their candidates from within the lists of the National Progressive Front, which reduces the chances of independent candidates winning seats in the Assembly. The rates of

women holding parliamentary seats is a manifestation of the lowest level of female representation in the political parties forming the Front. Out of the 14 members of the central leadership of the Arab Socialist Ba'ath Party, there is one woman i.e., about 7%. 50/50 gender parity in parliamentary representation has decreased. Female candidates for group A, including "workers and farmers", have little or no presence in the People's Assembly, given the social heritage prevailing in rural and agricultural areas. Women run for half of the seats allocated to the remaining segments of society for group B. The electoral system is similar to that applied in the People's Assembly. The National Progressive Front has lists of representatives from different categories of the population. The percentage of the representation of farmers, craftsmen and low earners goes beyond 60% of the total members. The parties forming the National Progressive Front and independent parties are represented in a manner similar to the elections of the People's Assembly.

The Political Parties Law issued under the Legislative Decree No. 100 of 2011 makes no reference or requirement to leadership parity or women's empowerment. It also encourages women to be more involved in public life, as well as to educate and train women to enhance their participation in general elections on all aspects of representation.

Sexual and Reproductive Rights

Under the Syrian legislation, abortion is criminalised. This drives women, secretly and with no health insurance or legal protection whatsoever, to have abortions carried out at private clinics.

The Syrian curriculum contains no materials related to sex education or gender identity. The Committee on the Rights of the Child (CRC) has criticised the Syrian government for adopting an educational system that is incompatible with Article 26 of the Convention on the Rights of the Child. The "school curriculum lacks a culture of respect for human rights and concepts of tolerance and gender equality, as well as the respect for religious and ethnic minorities," said the Committee.

Laws on Gender-Based Violence/Violence against Women

There can be no talks on laws relating to the forms of gender-based violence, since the Penal Code, as in the provisions criminalizing violence noted above, contains scattered provisions that do not go beyond the concepts of family honour, guardianship over woman and minor affairs, with no clear legal framework to address violence. Article 504: every person who seduces and deflowers a young girl after promising to marry her shall be liable to a term of up to five years in prison and a fine of up to 300 Syrian Pound, or either of the two penalties.

Article 505: every person who touches or fondles, in an indecent manner, a male or female minor under 15 years of age or a young girl or woman over 15 years of age without her consent, shall be subjected to an imprisonment term of up to one and a half years.

Article 506: every person who makes an indecent suggestion to

a minor under 15 years of age or to a young girl or woman over 15 years of age or directs bad words at someone shall be liable to a three-day preventive detention term or a fine not exceeding 75 Syrian Pound, or either of the two penalties.

The Syrian legislature adopts a language that is open for interpretation and grants broad powers to the discretion of judges in characterizing the acts of violence and determine their severity. The meaning of “indecent act” and “lewd behaviour” has been defined by judgments issued by the Court of Cassation, especially in relation to child victims, as any act of sexual nature carried out against a child: the act is deemed to constitute a licentious behaviour, while otherwise it is considered a lewd behaviour.”

According to a judgement by the Court of Cessation :

- Rape is an expression meaning forcible sexual intercourse with a woman.
- Indecent behaviour or lewd behaviour is any act committed against another person that is injurious to his or her honour and adversely affects his or her modesty.
- Immoral behaviour is an indecent act including any act that is dishonouring and which the perpetrator seeks to conceal.
- These offences are distinguishable in terms of the importance of the act, the nature of the area of the body toward which the act is directed, and the time and place of the act.

Despite the new law No. 20 of 2022 which recognizes the criminal legal rules of cybercrime stipulated in Legislative Decree No. 17 of 2012, the Syrian legislation contains no specific laws on the forms of gender-based violence taking place in digital spaces. This law introduces no punishment or criminalization to the types of gender-

based violence, hate speech and discrimination, and instead, simply provides for the offences against decency and modesty. Article 26 of this law stipulates: “a penalty of six months to a year in prison and a fine of one million to two million Syrian Pounds shall be brought against every person who processes still or moving images, conversations or audio recordings belonging to a person using means of information technology to become lewd and indecent, and sends them to him/her or to others, or shows them to him/her or others, or threatens to make them public on the internet. Every person who threatens to publish or publishes still or moving lewd or indecent images, conversations or audio recordings belonging to a person on internet, even if they were obtained with his/her consent, should be sentenced to a 3-year imprisonment term and a fine of 3 to 4 million Syrian Pounds.”

Economic and Social Rights

The laws have failed to protect women from discrimination and exclusion in the labour market. The Central Syrian Bureau of Statistics said that women’s labour force participation was 13% in 2010. However, the problem lies in the inaccuracy of the official statistics, as they make no reference to women working in the pastoral economy, domestic labour or community support domain. The economic value of women’s work goes unnoticed, and thus women’s involvement in the workforce is not accounted for.

Vulnerable and/or Marginalised Populations

There is no progress, recognition or special protection in practice granted to women, both resident or displaced and refugee women. LBTQI+ women continue to live in complete secret without legal or societal recognition.

3. RECOMMENDATIONS

To the current or future Syrian government:

- Immediate and complete cessation of arbitrary detention, enforced disappearances, extrajudicial killing and all forms of sexual violence, as well as start seeking accountability for perpetrators of human rights abuses, and repeal legislation that bestows on security and police services an immunity from being held accountable for the crimes they may perpetuate while on duty.
- Withdraw, fully and without conditions, Syria's reservations to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), while take use of the best practices in the region, especially those in place in the member states of the Organization of Islamic Cooperation.
- Conduct a comprehensive review so to harmonise the existing domestic legislation with Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), affirm constitutionally

that the provisions of the Convention should prevail over domestic laws, and amend the Constitutional Court Act to allow individuals and civil society organizations to challenge the constitutionality of laws that are inconsistent with the Constitution or international legal obligations.

To the EU/The UN or other international institutions.

- The High Contracting Parties to the Fourth Geneva Convention are called to assume their legal responsibilities in putting pressure on the parties to the Syrian conflict to immediately stop the acts of murder, arbitrary detention, enforced disappearance and sexual violence against women and marginalized groups in Syria.
- Mobilize all forms of support to the efforts that aim at ensuring accountability for the crimes against Syrian women and girls, as to support the UN and independent inquiry commissions, judicial efforts and committees on missing persons. The failure to disclose the fate of women's relatives would continue to pose a heavier load on them.

Endnotes

1. Syria declared that acceding to the Convention, in the first place, in no way signified a recognition of Israel, and therefore the Republic does not consider itself bound by Article 22 on the dispute that may arise between the parties on the interpretation and application of this Convention, which stipulates that disputes should be referred by the parties to the International Court of Justice for adjudication.

2. Syria does not recognise the Committee's competence as stated in Article 20 and permitted under Article 28. Syria also restated that joining the Convention does not necessarily signify a recognition of Israel.

3. Syria does not recognise the scope of the Convention on the Rights of Persons with Disabilities, as outlined in Articles 6 and 7 with respect to cooperation on conducting investigations into alleged violations.