



# STATUS OF WOMEN ASSESSMENT FOR SYRIA

April 2017

American Bar Association Rule of Law Initiative

# STATUS OF WOMEN IN SYRIA

## EXECUTIVE SUMMARY

Women in Syria suffer discrimination as a result of both unequal treatment under the law and cultural norms in a patriarchal society. Although Syria's constitution prohibits discrimination based on sex, many laws - particularly in the area of family law - privilege men over women. Prior to the conflict, women's most common legal needs revolved around family law issues - including divorce, maintenance, and child custody. Although women do have some rights under personal status laws, which govern family law, a male-dominated judiciary imbued with broad judicial discretion often results in resolution of cases in a manner widely perceived as biased in favor of men. Women also suffer from high levels of gender-based violence in Syria. Syria does not have a law against gender-based violence and the penal code provides for reduced sentences for "honor crimes". Due to lack of legal remedy and potential repercussions from family members, women rarely seek legal assistance in cases of gender-based violence.

The ongoing conflict exacerbates and complicates issues surrounding women's legal needs and access to justice. The conflict has fractured the Syrian justice system. In regime-held areas, the civil and family court system continues to function much as it did prior to the conflict; in opposition-held areas other than Kurdish areas, some form of Sharia law is being applied. The interpretation of Sharia law, and women's treatment under it, largely depend on the ideology of the armed group in control of the area. In addition, women's freedom of movement is restricted in areas most hard-hit by the conflict, particularly in extremist-held areas; therefore access to legal assistance is severely limited. Women's legal needs during the current conflict continue to be mainly in the area of family law. However, this is complicated by a lack of access to civil registries for personal status documentation. Women in opposition-held areas and in neighboring countries often lack valid personal status documentation - of marriage, divorce, births and deaths - which is crucial to claiming benefits to which they are legally entitled. In addition, both inside and outside Syria, polygamy and underage marriage are on the rise due to women's economic hardship and the need to seek "protection." In neighboring countries that do not recognize second marriage or where the age of consent is higher, women have no rights in the case of divorce and may not be able to register children born from these illegal marriages, potentially rendering these children stateless.

In the long term, Syrian laws that discriminate against women must change. There are a number of donor-funded initiatives that work on a gendered approach to the constitution and legislative amendments. These projects collectively work with a diverse group of Syrian lawyers and judges outside and inside Syria, although not in connection with the Syrian government, and donors should look to coordinate and enhance these efforts rather than duplicate them. In the near term, initiatives that support the capacity building of Syrian women lawyers and judges, both inside and outside Syria; increase legal awareness among women of their rights under Syrian and host country laws; and support legal education for the future generation of Syrian lawyers are needed. There are many Syrian lawyers and judges among the refugee population in neighboring countries whose legal skills are not

currently being put to use. This is particularly true of Syrian refugee women lawyers, who tend to find it more difficult than their male counterparts to engage in professional pursuits outside Syria. To benefit from this highly skilled population and to ensure that their legal skills remain sharp and up to date so that they may effectively take part in building a future Syria, programs should actively engage these Syrian lawyers and judges, with an emphasis on ensuring that women lawyers and judges are equally engaged. At the same time, programming should bring together lawyers and judges inside and outside Syria, both men and women, in order to avoid further fracturing of an already fractured population and to enable the legal profession to be part of the peace-building process in a post-conflict Syria. Further, connecting women lawyers from inside Syria and host countries would not only further reconciliation and return efforts, but would also serve the aim of empowering women lawyers through broader networks.

## **METHODOLOGY**

This assessment draws from ABA ROLI's Status of Women Assessment Methodology. The Status of Women Assessment Tool is designed to measure countries' compliance with international women's rights law and to present a rigorous analysis of data on the complex interplay of national laws, policies, and practices, as well as social, cultural, and religious norms that affect women's lives. This report is the product of desk research and in-depth interviews conducted with Syrian lawyers, judges and activists, and staff of international and local non-governmental organizations (NGOs) and UN agencies in Turkey, Lebanon and Jordan. In November 2016, the American Bar Association Rule of Law Initiative (ABA ROLI) took part in an assessment mission with the International Legal Assistance Consortium (ILAC) to assess the state of the Syrian justice system. The assessment was supported by the Swedish International Development Corporation. In addition to participating in general assessment meetings and interviews, ABA ROLI conducted separate, gender-focused meetings and interviews in Turkey, Lebanon, and Jordan, as described below. In these gender-focused meetings, interviewees were asked a series of questions pertaining to women's legal needs and access to legal aid, women's access to forums administering justice and barriers to access, and the status of women in legal education and the legal profession. Questions focused on legal needs and access to justice both prior to the conflict and during the conflict, in both regime-held and opposition-held areas.

Gaziantep, Turkey, November 2 through 9, 2016: The ABA ROLI, together with the ILAC team, took part in interviews with a panel of six former Syrian judges (including one female) and two former Syrian police officers, and a panel of seven Syrian lawyers (including one female), all currently residing in Gaziantep. In addition, the ABA ROLI Gender Advisor separately conducted a roundtable discussion with eight female Syrian lawyers, who previously resided in Aleppo, Idlib, and Raqqah and now reside in Gaziantep. The ABA ROLI also met with staff from Basmeh and Zeitooneh<sup>1</sup>, an NGO with offices in Turkey and Lebanon that works with the refugee population; Tamkeen, a European Union and United Kingdom-funded project that works with local communities and Local Councils

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<sup>1</sup> Basmeh and Zeitooneh is co-founded by a Syrian living in Beirut, Lebanon. It is headquartered in Beirut and has an office in Gaziantep, Turkey. See: <http://www.basmeh-zeitooneh.org/>

inside opposition-held areas of Syria to promote good governance;<sup>2</sup> and Mayday Rescue, a Turkish-based NGO that provides support to the Syria Civil Defense, also known as the White Helmets, which is known for its search and rescue efforts inside Syria.<sup>3</sup>

Beirut, Lebanon, November 10 through November 14, 2016: ABA ROLI, together with the other ILAC assessment team members, took part in interviews with a panel of three Syrian lawyers (two male, one female) currently practicing law in Damascus, a panel of six male Syrian lawyers who previously practiced in Damascus and now reside in Beirut, two male Syrian lawyers currently practicing in the criminal and terrorism courts in Damascus, and a female Syrian lawyer currently practicing in the criminal and terrorism courts in Damascus. Also with the ILAC team, ABA ROLI met with staff from UN OHCHR and UN-Habitat. In addition, the Gender Advisor held separate meetings with a Syrian women's rights activist who is currently active on constitutional and legal reform issues, staff from Human Rights Watch, a male Syrian lawyer who formerly assisted the Interim Government Ministry of Justice, and the coordinator of the Human Rights Center at Beirut Arab University.

Amman, Jordan, November 16 through 19, 2016: ABA ROLI, together with the ILAC team, met with the founder of the Syrian Legal Development Program, an NGO that works in non-state controlled areas to promote the rule of law.<sup>4</sup> Separately, ABA ROLI held a roundtable discussion with five Syrian lawyers (two men, three women) and one male Sharia court judge. ABA ROLI also held meetings with a women's rights activist who provides psycho-social support for refugee children, a women's rights activist currently taking part in EU-funded efforts on constitutional and legislative reform, a women's rights activist who provides livelihood training for women refugees, and a women's rights activist who works with victims of gender-based violence.

No names are used in this assessment to protect the identity of the lawyers, judges and activists, some of whom still travel frequently into Syria.

The first section of this assessment describes constitutional and legal provisions that provide for unequal treatment of men and women. The second section discusses women's legal needs and access to justice prior to the conflict that began in March 2011, including formal and informal barriers to legal assistance and legal forums, and effectiveness of legal remedies for women. The third section discuss how women's legal needs and access to justice have changed or been complicated by the conflict. This is followed by a section on women's participation in the legal profession, as a lack of women in the profession contributes to barriers to access to justice. The final section discusses ongoing efforts to support the Syrian justice system and the status of women within it, and provides recommendations on further action.

## **ANALYSIS OF THE STATUS OF WOMEN**

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<sup>2</sup> <http://www.project-tamkeen.org/>

<sup>3</sup> <http://www.maydayrescue.org/>

<sup>4</sup> Syrian Legal Development Program website: <http://syrianldp.com/en/>

## I. Constitutional Provisions and Laws

The 2012 Constitution of the Syrian Arab Republic enshrines secularism and the principal of equality among all citizens, prohibiting discrimination on the grounds of "sex, origin, language, religion or creed" (Article 33) and guaranteeing "respect for the principles of social justice, freedom, equality and maintenance of human dignity of every individual" (Article 19). With regard to women's rights, the Constitution provides: "The state shall provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life, and the state shall work on removing the restrictions that prevent their development and participation in building society" (Article 23).<sup>5</sup>

While these provisions appear to foster the equal status of women, other Constitutional and legislative provisions - particularly in the area of family law - are in tension with this concept and undercut a commitment to the equality of women. Article 3 of the 2012 Constitution, like the 1973 Constitution before it, privileges Islam over other religions, stating: "Islamic jurisprudence shall be a major source of legislation." This is most apparent in the area of family law, as governed by the Syrian Law of Personal Status of 1953 (SLPS), which is largely based on Sharia law. Although Article 3 goes on to state "[t]he personal status of religious communities shall be protected and respected," the SLPS applies to all Syrians, regardless of religion, with some exceptions in the areas of marriage, divorce, and inheritance, as described below.

The following section details how the laws of personal status and other legislative provisions afford greater rights to men than women. Although minority religious communities have their own personal status laws, many provisions of which are also discriminatory against women, this report focuses mainly on the Syria Law of Personal Status of 1953 (SLPS), as it governs most matters of family law for all Syrians, regardless of religion, and governs all areas of family law for the roughly 87% of Syrians that fall under its jurisdiction.<sup>6</sup>

### *Personal Status Law and Personal Status Courts*

The Syrian Law of Personal Status of 1953 (SLPS) governs marriage, divorce, paternity, custody, maintenance, guardianship and legal capacity, and inheritance. Matters governed by the SLPS are heard in the Sharia Courts. Articles 306, 307 and 308 of the SLPS exempt the Druze, Christian, and Jewish communities from certain aspects of the law, allowing them to govern themselves in their own personal status courts<sup>7</sup>, mainly in the areas of marriage and divorce.<sup>8</sup> However, the SLPS and the Sharia courts have exclusive jurisdiction over matters relating to legal guardianship, trusteeship, and legal representation; registration of deaths; legal capacity and mental maturity; missing persons;

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<sup>5</sup> A similar provision is contained in the 1973 Constitution, Article 45.

<sup>6</sup> All Syrians other than Druze, Christians, and Jews, which together make up approximately 13% of the population, are subject to all parts of the SLPS.

<sup>7</sup> Ruhl Courts have jurisdiction over Christians and Jews; Madhabhi Courts have jurisdiction over Druze.

<sup>8</sup> Eijik, Ester van (2014), *Pluralistic Family Law in Syria: Blane or Blessing?*, Electronic Journal of Islamic and Middle Eastern Law, 2, pp.73-74.

determination of paternity; and the maintenance of relatives.<sup>9</sup> In accordance with Article 305, if a matter is not discussed in the SLPS a judge determines rights based on the Hanafi school of Sharia.<sup>10</sup> This allows broad discretion to Sharia court judges.

Sharia court judges are civil servants and must be graduates of a law faculty. As such, they are trained in the law. While they generally administer Sharia law, they are not religious clerics trained in Islamic jurisprudence. By contrast, judges in the Christian courts are clergymen.<sup>11</sup> Although not explicitly required by law, in practice, judges in the personal status court are men. While there have been instances of women judges in the past, official statistics show no women judges in the personal status courts as of 2007.<sup>12</sup> The SLPS is taught in law faculties, often by professors from the Sharia faculties rather than law faculties; however, other personal status laws are generally not taught.<sup>13</sup>

As discussed below, the SLPS privileges men over women in matters related to marriage, divorce, custody and guardianship, and inheritance.

*Marriage.* The age of capacity for marriage is 18 for men and 17 for women (SLPS, Art. 16), or 15 for boys and 13 for girls with the consent of a guardian and a judge (SLPS, Art. 18). Women must have the consent of a guardian in order to marry, while men may freely choose to marry without matrimonial guardianship (SLPS, Art. 20). A Muslim man may marry a non-Muslim woman but a Muslim woman may not marry a non-Muslim man (SLPS, Art. 48.2). Polygamy is allowed. Amendments to the SLPS in 1975 intended to make it more difficult for a man to have multiple wives by requiring a husband to have the financial ability to support an additional wife and a Sharia justification (SLPS Art. 17), the wife's consent to share a marital home with a co-wife (SLPS, Art. 67), and equal housing for all wives (SLPS, Art. 68). However, in practice, polygamy is still common.

Marriage is conditioned upon obedience. If a wife is disobedient to her husband, she loses her right to maintenance for as long as she is disobedient (SLPS, Art. 74). A married woman requires her husband's permission to work, or she forfeits her right to maintenance (SLPS, Art. 73). Christian personal status laws also require a woman's obedience in exchange for a husband's maintenance.<sup>14</sup>

*Divorce.* A man has the right to one-sided and unconditional repudiation of a marriage (*talaq*) (SLPS, Arts. 85-94). In contract, a woman may petition for divorce only under very restrictive conditions - including insanity, lack of consummation, and "harm" - referred to

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<sup>9</sup> Law of Judicial Procedures, Article 535. Cited in: Eijik, Esther van (2013), *Family Law in Syria: A Plurality of Laws, Norms, and Legal Practices*, Leiden University, p.60.

<sup>10</sup> Eijik, Ester van (2016), *Family Law in Syria, Patriarchy, Pluralism and Personal Status Laws*, [E-reader version], London: I.B. Taurus & Co. Ltd.

<sup>11</sup> Eijik, 2016, Chapter 2.

<sup>12</sup> Cardinal, M.C., 2010, *Why Aren't Women Shari'a Court Judges? The Case of Syria*, *Islamic Law and Society*, 17(2), pp. 185-214.

<sup>13</sup> Eijik, 2016, Chapter 2.

<sup>14</sup> Eijik, 2013:64; Eijik, 2016, Chapter 4.

as "judicial divorce" (*tafriq*) (SLPS, Arts. 105-114).<sup>15</sup> Under SLPS Art. 117, if a man abuses his unilateral right to divorce and arbitrarily divorces his wife, she may seek compensation. However, if there are relatives who can financially support her, a man who arbitrarily divorces his wife may not be required to pay compensation to her.<sup>16</sup> A third type of divorce, *mukhalaa*, is a contract for divorce in which a man agrees to a divorce in exchange for his wife relinquishing all or some of her financial rights (SLPS, Arts. 95-104).

*Custody and Guardianship.* In the event of a divorce, a mother is entitled to physical custody of a son until he is 13 years old and of a daughter until she is 15 (SLPS Art. 146). A woman loses this right if she remarries (SLPS, Art. 138). However, even while the mother has physical custody, the father retains legal guardianship until the child reaches 18 years of age (SLPS Art. 162). Guardianship involves control over "education, medical treatment, instruction, career guidance, consent to marriage and any other affairs concerning a minor's interest" (SLPS, Art. 170). The father also retains guardianship over a minor's funds (SLPS, Art. 170), and therefore a mother with custody of her child might not have access to the funds to provide for that child. In addition, even if a mother retains physical custody, a father may decide to marry off his daughter without the consent of either the mother or daughter.

During marriage, a woman may not travel with her child without permission of the child's father (SLPS, Art. 148), while a father may travel freely with his child during marriage. If a woman retains custody after a divorce, a woman's right to travel with her child is limited without permission of the guardian; however, likewise, a father may not travel with his child without the permission of the custodian (SLPS, Art. 148).

These SLPS provisions on guardianship apply to all religions (Law of Judicial Procedure, Art. 535), while Christians and Jews are exempt from the provisions on physical custody (SLPS, Art. 308).

*Inheritance.* Sharia law provides detailed and complicated calculations of inheritance shares; a complete discussion on this topic is beyond the scope of this paper. However, as a general rule, a woman may inherit from her father, mother, husband or children, and under certain conditions, from other family members; however her share is smaller than a man's entitlement. For example, a son inherits twice the amount that a daughter inherits. These principles are embodied in Book Six of the SLPS. Article 209 of the SLPS provides that a will may not contain anything prohibited by Sharia. Unless all heirs agree, only up to one-third of an estate may be bequeathed in a will to persons not considered heirs under Sharia law; the remaining two-thirds are distributed in accordance with Sharia principles (SLPS, Art. 238).

Up until 2010, inheritance and bequest provisions of the SLPS applied to all citizens. An amendment to Article 308 in 2010 allowed inheritance and bequests to be determined in

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<sup>15</sup> Tabet, G., 2005, *Women in Personal Status Laws: Iraq, Jordan, Lebanon, Palestine, Syria*, UNESCO, Gender Equality and Development Section, SHS Papers in Women's Studies/Gender Research, p. 26.

<sup>16</sup> Van Eijik, 2016, Appendix.

the various religious courts according to their own codes.<sup>17</sup> Therefore, Druze, Christians and Jews may bequeath an estate in accordance with a last will and testament, and this need not be in accordance with Sharia principles.<sup>18</sup>

#### *Other Discriminatory Provisions - Nationality Law and Penal Code*

In addition to provisions of the SLPS, provisions in the Penal Code and Nationality Law are discriminatory toward women. Specifically, Article 3 of the Nationality Law permits only fathers to transmit citizenship. Although the law provides an exception for foundlings (a person of unknown parents or parents of unknown nationality) and for persons born in Syria whose relationship to a father cannot be established, these exceptions are rarely applied.<sup>19</sup>

Provisions in the Penal Code allow men to invoke the defense of honor as a mitigating circumstance for assault or murder. Specifically, Art. 548 states: "He who catches his wife, sister, mother or daughter by surprise, engaging in an illegitimate sexual act and kills or injures them unintentionally" may be sentenced to five to seven years imprisonment.<sup>20</sup> This provision was amended in 2011 and 2009 to increase the minimum sentence. Prior to 2011, punishment was two to three years, and prior to amendment in 2009 there was no punishment imposed for honor killings. In contrast, the punishment for murder is 20 years hard labor.

Further, the Penal Code facilitates impunity for rape and pressures women to marry their rapists. Article 508 of the Penal Code provides for a reduced sentence of two years if a rapist marries his victim (prior to 2011, a perpetrator was exempt from punishment altogether if he married the victim). There is no law against marital rape, domestic violence or gender-based violence.

Adultery, which is a crime in Syria, has a different definition, punishment and conditions for proof for men and women. Specifically, adultery must be committed inside the home in order for a man to be charged. In contrast, a woman may be prosecuted for committing adultery anywhere. While a man may produce any form of evidence against his wife in court, including witnesses, physical proof, or written documents, a woman may only present written evidence of adultery. If convicted of adultery, women may serve three months to two years in prison, while men serve only one month to one year.<sup>21</sup>

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<sup>17</sup> Van Eijk, 2016, Chapter 3.

<sup>18</sup> A Sharia court judge and numerous lawyers interviewed during the course of this assessment were unaware of the 2010 amendment to the SLPS. Only two lawyers interviewed were aware of the changes to inheritance provisions. These lawyers came from the Druze community and had practiced in the Madhhabi court. This suggests that the amendment to the law was not widely publicized.

<sup>19</sup> International Rescue Committee, 2016, *Civil Status Documentation in Non-Government Areas of Northern Syria*, p.15, available at <https://www.scribd.com/document/319310864/IRC-Full-Assessment-Civil-Status-Documentation-in-Non-Government-Areas-in-Northern-Syria-July-2016> [accessed 28 November 2016].

<sup>20</sup> Human Rights and Gender Justice Clinic, City University of New York School of Law, 2016, *Human Rights Violations Against Women and Girls in Syria*, Submission to the United Nations Universal Periodic Review of the Syrian Arab Republic, 26th Session of the UPR Working Group of the Human Rights Council, p. 3.

<sup>21</sup> Freedom House, *Women's Rights in the Middle East and North Africa - Syria*, 14 October 2005, available at: <http://www.refworld.org/docid/47387b70c.html> [accessed 22 November 2016].

### *International Obligations:*

The above-described discriminatory laws are not in compliance with the principles contained in the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW). However, while Syria ratified CEDAW in 2003, it did so with reservations to Article 2; Article 9, paragraph 2, concerning the grant of a woman's nationality to her children; Article 15, paragraph 4, concerning freedom of movement and of residence and domicile; Article 16, paragraph 1 (c), (d), (f) and (g), concerning equal rights and responsibilities during marriage and at its dissolution with regard to guardianship, the right to choose a family name, maintenance and adoption; Article 16, paragraph 2, concerning the legal effect of the betrothal and the marriage of a child, inasmuch as this provision is incompatible with the provisions of the Islamic Sharia law; and Article 29, paragraph 1, concerning arbitration between States in the event of a dispute.<sup>22</sup>

## **II. Women's Legal Needs and Access to Justice Prior to the Conflict**

Prior to the revolution, women's legal needs mainly related to family law. According to scholarly work on personal status courts, the majority of cases brought in Sharia courts concerned divorce and most often were initiated by women.<sup>23</sup> Interviewees confirmed this opinion based on personal observations, stating that women who sought legal assistance primarily sought assistance for divorce, maintenance, and custody. According to many female lawyers and activists, gender based violence and domestic violence were also prevalent; however, few women were willing to bring these cases before a court (See below, Effective Remedies).

There was and is no formal legal aid system in Syria, and lawyers generally do not accept pro-bono cases. Therefore, one barrier to access to legal assistance is the cost of obtaining a lawyer. While this is a barrier for men and women, lack of pro bono services may disproportionately impact women, as they often lack control over household finances. Under Sharia law, a husband must provide for his wife. By law, a woman may have her own bank account and control her own money. However, in practice, men generally control the family finances, which results in a women's inability to retain private legal assistance.

The dominance of men in the Bar and judiciary also presents an informal barrier to access to legal assistance for women. Official Syrian Bar Association statistics show that in 2011 women comprised approximately 21% of the Bar. The percentage of women lawyers varied greatly by province, ranging from 30% in Damascus down to 8% in Raqqah. According to interviewees, in more conservative areas of the country, women may be reluctant to contact a male lawyer, as this would be seen as inappropriate conduct. In addition, many female lawyers report that male lawyers often poorly treat female clients.

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<sup>22</sup> UNWomen website: <http://www.un.org/womenwatch/daw/cedaw/reservations-country>

<sup>23</sup> Eijik, 2016, Chapter 5.

Prior to the conflict, women comprised approximately 14% of the judiciary, however there were and continue to be no women judges in the personal status courts.<sup>24</sup> Women are not explicitly excluded from the judiciary of personal status courts by law. However, Article 24 of the SLPS states: "the judge is the guardian of whoever has no guardian." This provision is used to argue that a woman may not function as a Sharia court judge, because a woman cannot act as the guardian of a minor or a marriage guardian.<sup>25</sup> Among the other personal status courts, only the Greek Orthodox religious courts explicitly allow female judges. However, in practice, all personal status court judges are men.<sup>26</sup> Numerous female lawyers and one female judge report that male judges often harass women litigants and even women lawyers in court. An employee of an NGO that provides legal assistance within Syria recounted an instance where a woman was beaten in court by her husband, and the judge did not intervene.

Further, due to the patriarchal culture, a woman may fear repercussions from her husband and family if she pursues legal remedies. For example, if a woman seeks a divorce and maintenance and later is pressured into reconciliation, she may be treated more poorly after reconciliation.

These factors may result in a woman's reluctance to seek legal assistance or resort to the personal status courts. As stated by one scholar, these "gender norms and values apply equally to all Syrian women, regardless of religion."<sup>27</sup> However, it is important to note that many interviewees stated that these barriers were less significant in urban centers, such as central Damascus, where secular attitudes were more prevalent.

#### *Effectiveness of Remedy*

When women do avail themselves of the courts, they may not feel they have attained justice. Sharia court judges have wide discretion over areas not covered in detail in the SLPS and regarding remedies (SLPS, Art. 305). While a former Sharia court judge (male) interviewed stated that "Islamic Sharia is stable", a female lawyer from Daraa in the same interview group countered "the law is elastic, the law is flexible." The majority of female lawyers and activists interviewed felt that this discretion allows a manifest bias by male Sharia court judges in favor of men.

This bias was noted particularly in divorce and custody cases. In a judicial divorce (*tafriq*) case, the first step is an obligatory reconciliation process set forth in Articles 112 - 115 of the SLPS. In this process a judge "appoint[s] two arbitrators from among the families of the couple or anyone the judge deems able to reconcile them" (SLPS, Art. 112.3). If efforts at reconciliation fail, the two arbitrators, who are always men, issue a report that determines "wrongdoing". Based on this report, the judge determines the rights of the husband and wife. If it is determined that the marital discord is the greater or equal fault of the wife, she will be required to return all or part of the marriage dowry (SLPS, Art. 114). The judge has broad discretion in appointing arbitrators. Three female lawyers and one female judge

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<sup>24</sup> Cardinal, 2010, p.186.

<sup>25</sup> Cardinal, 2010, p.189-190.

<sup>26</sup> Cardinal, 2010, p.186.

<sup>27</sup> Van Eijk, 2016, Introduction.

noted that these arbitrators usually are not close family relatives, nor are they professionals or trained in any way. They all expressed the opinion that the practice of using distantly related or unrelated men results in a bias toward the man's point of view. This, combined with the wide discretion of the judge, often results in a loss of financial support for women in divorce cases.

The separation of guardianship and custody can also prevent effective remedies for women in custody cases. Women activists and lawyers report that, while a woman is entitled to physical custody of her children, if a judge does not require adequate financial support by the father, including the right to stay in the family home, many women are forced to give up custody. In practice, without her own resources or the assistance of her family, a mother may simply be unable to care for her children. Consequently, it is not uncommon for children to remain with their father even if the mother has been awarded custody. Many female lawyers report that men often use custody as a bargaining chip in order to get women to relinquish rights to financial support. Women lawyers state that it is more common for women to abandon/relinquish or reduce their economic rights in a contractual divorce (*mukhalaa*) than go through a lengthy judicial divorce (*tafriq*) procedure. A male Sharia court judge stated that this was not his experience.

If a woman loses custody of her child, how and when visitation happens is up to the judge in the case. Interviewees report that a woman's right to visitation is often confined to a child visitation center for two to six hours each week. One female lawyer from Damascus (interviewed in Beirut) and three female lawyers who previously lived in Daraa, Damascus and Idlib (interviewed in Amman) reported that conditions in these centers are poor. The lawyer from Daraa described the conditions as "not suitable for a cat." In areas that don't have centers, these visits may happen in courthouses.

Some interviewees also noted that corruption in the court system prevents effective remedies for the party with fewer resources, which is typically the woman. Corruption, including bribery, permeates all levels of the Syrian judiciary and the Sharia courts are no exception.<sup>28</sup>

#### *Procedure and Remedy in Gender-Based Violence Cases and Honor Killings*

The procedure and remedy for domestic violence merits special attention due to cultural constraints to bringing such a case and discriminatory provisions in the law with regard to honor killings. Many women never lodge a domestic violence complaint due to social constraints, for fear of reprisal from a husband or family member, and due to perceptions of the police as untrained and unsympathetic to this type of complaint.<sup>29</sup> In the case of death due to domestic violence, prosecution will occur but sentences are often reduced. Official statistics on honor killings do not exist. However, the Syrian Women Observatory, an independent Syrian civil society organization that addresses discrimination against

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<sup>28</sup> Van Eijk, 2016, Introduction.

<sup>29</sup> Inquiry into police services is beyond the scope of this report. However, a contributing factor to effective remedies in domestic violence cases is the lack of female representation within the police forces. Most police stations in opposition-held areas have no female officers and representation in regime-controlled areas reportedly varies by district depending on social norms in that community.

women, estimates that there are nearly 200 honor killings each year.<sup>30</sup> A submission to the 26th Session of the UPR Working Group of the Human Rights Council estimates that there were 300-400 honor crimes in 2010.<sup>31</sup>

In the case of domestic violence, if a woman chooses to lodge a complaint the process is difficult and may not result in any effective relief. The first step in the process is to file a complaint with the police, who then contact the alleged abuser and initiate a preliminary investigation. If the police determine that the case warrants further investigation, the case is referred to the public prosecutor. In a court proceeding, a police officer reads a summary statement of the incident and the public prosecutor then recommends either detention of the accused or his return to his home.

If the defendant is detained, the matter is subject to a full investigation by the public prosecutor, who then decides on the charge and the competent court. If the public prosecutor finds that the victim was out of work or incapacitated for seven days or less, this is considered a minor offense and the case is sent a Court of Conciliation (*mahkamat al-sulh*), which has jurisdiction to impose a sentence of up to one year. If the victim was out of work or incapacitated for seven to 21 days, the offense is a misdemeanor and is sent to a Court of First Instance (*mahkamat al-bidaya*), which has the power to impose a sentence up to three years. If the victim is out of work or incapacitated for 21 days or more, or fully or partially incapacitated (which includes a broken limb), the case goes to the Court of Assize, a criminal court with power to impose a sentence from three to fifteen years. The competent court holds trial, at which the defendant appears, and determines the sentence. Although the victim has the right to appear in court, in practice, women generally let their attorneys appear on their behalf.

According to a lawyer who has handled many such cases, domestic violence cases are most often sent to the Court of Conciliation. He further stated that in his experience, "99% of cases" are dropped by the victim before sentencing. He did, however, know of a specific case in which a husband who broke his wife's arm was sentenced to six months in prison and fined 280,000 Syrian pounds. This offence, in theory, was subject to a sentence of three to fifteen years.

In the case of death of the victim, a defendant may avail himself of the provision in the penal code that allows for a reduced sentence for honor crimes. According to Art. 548, a man must catch a woman "by surprise, engaging in an illegitimate sexual act" in order to receive a reduced sentence. In practice, according to the criminal defense lawyer interviewed, judges often reduce a man's sentence even if there is no first-hand evidence. It is within a judge's discretion to determine if a murder is an honor crime, and judges frequently take the defendant on his word, admitting no other evidence.

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<sup>30</sup> Human Rights Watch, *Syria: No Exceptions for 'Honor Killings*, 28 July 28 2009, available at <https://www.hrw.org/news/2009/07/28/syria-no-exceptions-honor-killings> [accessed 22 November 2016].

<sup>31</sup> Human Rights and Gender Justice (HRGJ) Clinic, City University of New York School of Law, 2016, p. 3.

### III. Women's legal needs and access to justice during conflict

Women's legal needs and barriers to access to justice during the ongoing conflict spring from the above described discriminatory laws and barriers, but are further complicated by displacement, economic hardship, and actions of rebel groups. Below is a brief overview of the fractured justice system within Syria at this time and the legal needs of women both inside and outside Syria.

#### *Access to legal assistance in a fractured justice system*

In regime-controlled areas, the functioning of personal status courts has remained largely the same. However, in opposition-held areas, different legal codes and procedures have been put in place. The law applied depends on the armed group holding the area and reflects the ideology of that group. In some opposition areas, armed groups are applying the Unified Arab Code (UAC), which applies Sharia law to criminal as well as civil matters. "Judges" may be lawyers, but as often as not, may be militants or clerics from the armed group. In areas held by extremist groups such as Jabhat Fatah al-Sham (formerly al-Nusra) and ISIS, the law is an uncodified extreme form of Sharia law and "judges" generally have no legal training. In other areas, the law is an ad hoc mixture of rules. In all opposition areas except Kurdish-held areas, some form of Sharia law is being applied in both civil and criminal matters. While laws and policies promoting gender equality have been adopted in Kurdish-held areas, many interviewees assert that these laws are seldom enforced. One interviewee stated that there is one female judge in the Kurdish-held areas.

In opposition-held areas, women's access to legal forums depends on women's freedom of movement. In areas held by extremist groups, women's freedom of movement is extremely restricted; women cannot move freely without a male relative and men and women cannot mix in public. As stated by one interviewee, the law in these areas is "the intersection of patriarchy and extremism." Even in areas controlled by more moderate opposition forces or the regime, women's freedom of movement may be restricted as a result of the conflict and social and religious norms. Outside Syria, in Turkey, Lebanon and Jordan, the international community has funded initiatives whereby local lawyers and/or Syrian lawyers trained by local lawyers provide legal information and advice to the Syria refugee population.<sup>32</sup>

While women have traditionally had access to some form of informal justice, which generally involves a male community elder or leader mediating a dispute, women are often marginalized in these customary systems due to their lack of status and influence in their communities. This continues to be true during the conflict.<sup>33</sup> Indeed, when interviewees were asked about informal justice, they were dismissive of these traditional practices and felt they were and are another form of control over women.

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<sup>32</sup> These types of programs are being implemented by ABA ROLI in Turkey, Arab Renaissance for Democracy and Development (ARDD) in Jordan, and International Rescue Committee (IRC) and Norwegian Refugee Council (NRC) in Lebanon.

<sup>33</sup> Al-Masri, M., Altabaa, M., and Ablu, Z., 2016, *Informal Justice Mechanisms used by Syrian Refugees in Lebanon*, International Alert.

### *Legal needs during conflict*

An overarching legal concern for women is restrictions on freedom of movement that have resulted both from the conflict itself and from conservative social and religious norms that have taken hold in many areas controlled by opposition forces. While restrictions on movement are most strict in areas controlled by extremist groups such as Jabhat Fatah al-Sham and ISIS, lack of freedom of movement is also a serious concern in many areas controlled by moderate armed groups. As discussed above, this creates a barrier to access to justice, but it is also a legal and human rights concern in and of itself.

Within this context, women's legal needs continue to be mainly in the area of family law and violence against women; however, the conflict exacerbates and complicates these issues. While no official statistics are available, interviewees state that divorce is on the rise. Divorce can be complicated when a woman's husband is not physically present. While a woman may seek a divorce on grounds of abandonment inside Syria, this is not always true in neighboring countries. According to female Syrian lawyers in Turkey, the lack of presence of a husband at a divorce proceeding can prevent a divorce from going forward.

Polygamy is also on the rise both inside and outside Syria, according to interviewees, due to a rising number of widows and economic hardship. While polygamy is legal in Syria, Lebanon and Jordan, it is illegal in Turkey. Despite this, many Syrian women are becoming second wives to Turkish men as result of family pressure, economic destitution, or in the false hope of accruing rights of Turkish citizenship. However, because the marriage is not legal, they cannot become Turkish citizens and, should they seek a divorce, have no right to financial support. Child marriage and forced marriage is also on the rise for the same reasons, both inside and outside Syria, and particularly in refugee camps in neighboring countries. These underage marriages are not recognized in neighboring countries.<sup>34</sup> A female Syrian lawyer in Turkey stated that when these girls become pregnant, they refuse to go to the hospital for pre-natal care and birth as they fear, although incorrectly, being prosecuted for the illegal marriage. They are also afraid to register their children for the same reason. Consequently, children of child marriages often remain undocumented and run the risk of being stateless.

The need to document births, deaths, marriage, and divorce in the civil registry remains a top priority for women, as proof of status is necessary for many daily needs such as travel and claiming benefits, both inside and outside Syria. Documentation in regime-held areas continues as before. However, many in opposition-held areas cannot access or are afraid to access government civil registries for fear of reprisal if they are connected to an opposition group. While many people in opposition areas are registering with documentation centers attached to Local Councils established by opposition forces, these documents may not be recognized outside the local area, and there is uncertainty whether these documents will be recognized post-conflict. Outside Syria, groups such as the Free Syrian Lawyers Association in Turkey are issuing their own documentation. However, the Turkish government does not recognize this documentation.

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<sup>34</sup> The age of marriage is 17 in Turkey and 18 in Jordan. In Lebanon, the age of marriage varies with religious communities.

The potential for stateless children is on the rise due to nationality laws that permit transmission of nationality only through fathers and due to an inability to document birth fathers during the conflict. If a father is away from home in combat, dead, missing or no longer with the mother of a child, a mother may be unable to register the birth of the child with the name of the biological father. This can render a child stateless. Even if the father is with the family, registering a birth may still be an issue for some. Refugees associated with the opposition, even remotely, fear entering the Syrian embassy in Turkey, Lebanon and Jordan. There are logistical and financial constraints as well, as many Syrian refugees reside outside the city where the embassy is located and cannot easily travel within their host country. One interviewee, a Syrian male residing in Lebanon, told the story of trying to register the birth of his 18-month old daughter. Fearful of applying for a birth certificate at the Syrian Embassy in Beirut, he paid large fees to an intermediary to obtain the birth certificate for him. He then paid additional fees to another intermediary to enter Syria and obtain a passport for his child. Without this, his daughter would have been unregistered and officially stateless, and he would be unable to travel with her outside Lebanon.

Interviewees report a high incidence of gender-based violence both inside and outside Syria, although there are no official statistics. They also report that there are not enough programs to assist victims, and, where they do exist, victims are often unaware of the availability of services. According to a female activist in Beirut, there are only three shelters in Lebanon, which serve the refugee and local population. An NGO employee that works with refugees in Gaziantep, Turkey stated that she was told of the existence of a shelter in Gaziantep yet could not find out its location. Inside Syria, it was difficult for a woman to seek redress in court prior to the conflict, as described above. It is now virtually impossible in many opposition-held areas in Syria because the laws now imposed in those areas provide no recourse, even if women could freely access the courts.

In Syria, women activists are often targeted by the regime, detained, abused and tortured.<sup>35</sup> In addition, women are often detained to get male relatives to turn themselves in.<sup>36</sup> A lawyer who currently works in Damascus states that, according to official statistics, there are 11,000 women being held in detention in military field courts, terrorism courts and first instance courts. However this interviewee believes the real number may be as high as 15,000. Another lawyer who also currently works in Damascus stated that there are 7,000 women detainees being held in Adra prison in Damascus, and that there may be as many as 30 children, arrested with their mothers, in Adra. While there is a high incidence of rape and sexual violence in prison of both men and women, sexual violence against women is used as a tool of the regime, as this brings shame to the entire family.<sup>37</sup>

Finally, although beyond the scope of this report, which is focused on issues pertaining to the Syrian justice system, there has been at least one documented bust of a trafficking ring

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<sup>35</sup> See Women's International League for Peace and Freedom, 2016, *Violations Against Women in Syria and the Disproportionate Impact of the Conflict on Them*; Human Rights Watch, 2014, *We are Still Here. Women on the Front Lines of Syria's Conflict*.

<sup>36</sup> Human Rights Watch, 2014, *We are Still Here*.

<sup>37</sup> Women's International League for Peace and Freedom, 2016, p. 10

involving Syrian refugee women in Lebanon.<sup>38</sup> Interviewees in Lebanon and Turkey expressed the opinion that trafficking is occurring on a much larger scale but has yet to be investigated or prosecuted.

#### **IV. Women in the Legal Profession**

##### *Women's participation in Legal Education*

Women in Syria generally have had equal access to educational opportunities. According to UN Women, Syria scores 0.967 on the Gender Gap Index for "educational attainment" (1.00 equals equality).<sup>39</sup> However, while women constituted approximately half of the pre-conflict university population,<sup>40</sup> they were less well represented in law faculties, likely due to cultural barriers. In the early 2000s, approximately 30% of the graduates from the University of Damascus and 19% of the graduates from the University of Aleppo were women. Statistics are not available from the smaller law faculties.<sup>41</sup>

As with other types of education, law students have had their education disrupted by the conflict. Prior to the conflict, law faculties were operating through Damascus University in Damascus and its Daraa branch, Aleppo University in Aleppo and its Idlib branch, El Baath University in Homs, Tishreen University in Latakia, and Euphrates University in Dier Al Zour. Interviewees were of the opinion that all faculties except Daraa and Homs are still functioning; however this information could not be verified. Current enrollment statistics for law faculties could not be obtained. However, given that primary education enrollment has dropped to 50% overall, and as low as 6% in places like Aleppo, where conflict has been prolonged,<sup>42</sup> it can be assumed that many law students have had their education disrupted. Some refugees have been able to attend law faculties in Turkey, Lebanon and Jordan. However, for many the cost of tuition is out of reach. Women are particularly impacted. While women comprised half of all university students in Syria prior to the conflict, only approximately 20% of Syrian university students in Turkey, Lebanon and Jordan are women.<sup>43</sup> This may be due to a number of factors, including families allocating scarce resources to male family members for economic and cultural reasons.<sup>44</sup>

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<sup>38</sup> Human Rights Watch, 28 July 2016, *Lebanon: Syrian Women at Risk of Sex Trafficking*, available at: <https://www.hrw.org/news/2016/07/28/lebanon-syrian-women-risk-sex-trafficking> [accessed 25 November 2016].

<sup>39</sup> UN Women, Spring Forward for Women Programme, Syria, available at: <http://spring-forward.unwomen.org/en/countries/syria> [accessed 25 November 2016].

<sup>40</sup> Institute of International Education, 2014, *We will Stop Here and Go No Further: Syrian University Students and Scholars in Turkey*, p.12, available at: <http://www.iie.org/en/Research-and-Publications/Publications-and-Reports/IIE-Bookstore/We-Will-Stop-Here-And-Go-No-Further-Syrian-University-Students-And-Scholars-In-Turkey#.WEmOBaLx4RE> [accessed 8 December 2016].

<sup>41</sup> Cardinal, M.C, 2008, Women and the judiciary in Syria: appointments process, training and career paths, *International Journal of the Legal Profession*, 15(1-2), pp. 123-139.

<sup>42</sup> Human Rights and Gender Justice (HRGJ) Clinic, City University of New York School of Law, 2016, *Submission to the UN 26th Session of the UPR Working Group of HRC*, p.6.

<sup>43</sup> Institute of International Education, 2014, *We will Stop Here and Go No Further: Syrian University Students and Scholars in Turkey*, p.12, available at: <http://www.iie.org/en/Research-and-Publications/Publications-and-Reports/IIE-Bookstore/We-Will-Stop-Here-And-Go-No-Further-Syrian-University-Students-And-Scholars-In-Turkey#.WEmOBaLx4RE> [accessed 8 December 2016].

<sup>44</sup> IIE, 2014, p.12.

### *Women's Representation in the Legal Profession*

Women comprised 14% of the judiciary in Syria; however, as discussed above, there are few female judges, if any, in the personal status courts.<sup>45</sup> As mentioned above, in 2011 women comprised approximately 21% of Bar Association membership and the percentage of women lawyers varied greatly by province. Given that women were roughly 14% of the total workforce in 2012,<sup>46</sup> women's participation in the legal sector appears to be similar to other employment sectors. However, it is unclear whether women members of the Bar are all currently practicing lawyers.

The majority of female lawyer interviewees stated that many female lawyers choose a government career path because the practice of private law is not considered culturally appropriate. However, this varies greatly by location, as women report that they can more freely practice private law in cities such as Damascus. Women report that corruption in the judiciary is one of the main barriers to women practicing in the courts. Many report that the lawyer with the best connections to the judge or who is best able to facilitate a bribe will win a case. This may entail socializing with judges. Women are less likely to have these connections and cannot take part in the social club of male judges and lawyers, resulting in women lawyers being perceived as less "effective." Consequently, women are more likely to enter government service.

While women are represented in the lower ranks of the judiciary and Bar Association, they are less likely to hold high-level positions. According to interviewees, there are no women in leadership positions in the Bar Association, which still functions in regime-controlled areas. One female lawyer noted that there is a Women's Committee within the Bar; however, it is chaired by a man and she described its work as "decorative, pro-forma."

All Syrian lawyers, men and women alike, have been impacted by the ongoing conflict. Lawyers in Turkey, Lebanon and Jordan are not eligible to join the Bar associations in their host countries, and therefore their skills are languishing. Syrian women lawyers interviewed in Turkey expressed the opinion that their male counterparts are faring better as they may find other work in the business arena, which is not culturally appropriate for women. None of these women lawyers were currently working as paid lawyers; however, seven of the nine were informally volunteering with NGOs providing legal advice to Syrian refugees.

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<sup>45</sup> Cardinal, 2016, p. 185.

<sup>46</sup> UN Women, Spring Forward for Women Program, Syria, available at: <http://spring-forward.unwomen.org/en/countries/syria> [accessed 25 November 2016].

## CURRENT EFFORTS AND RECOMMENDATIONS TO SUPPORT THE SYRIAN JUSTICE SYSTEM

### I. Current efforts in support of the Syrian justice system and equality for women.

The assessment team met with lawyers and activists taking part in diverse donor-funded efforts aimed at supporting amendments to the Constitution and various laws. This section describes those efforts and other efforts uncovered in desk research. This is not intended to be a complete list of initiatives, but rather is intended to give the reader a sense of the scope of ongoing work on constitution building and legislative drafting so that future donor efforts can be coordinated with these efforts.

The United Nations Economic and Social Commission for Western Asia (UNESCWA) is supporting The National Agenda for the Future of Syria Program, which aims to engage all stakeholders in discourse on the future of Syria. The program works with a broad array of Syrian lawyers and experts to draft policy papers in social, economic and governance sectors. To date, the program has published the following papers: "Administrative Governance and Decentralization", "Political Governance in Syria: Legitimacy Building and Political Reform" and "Working Study: Syrian Constitution - National Agenda for the Future of Syria."<sup>47</sup> UNESCWA works with Syrians currently residing within Syria, many of whom are part of the Damascus-based Equal Citizenship Center, to draft these policy papers.

The EU and the Spanish Agency for International Development Cooperation (AECID) supported a series of five workshops in 2016 focused on redrafting the constitution and laws, including laws that are currently discriminatory toward women. Participants in these workshops are Syrian activists and lawyers residing in Jordan. The Euromed Feminist Initiative (IFE-EFI) in partnership with the Equal Citizenship Center is also conducting an initiative on "A Gendered Approach to Constitution Building."<sup>48</sup>

The following additional projects were identified through desk research: From January through May 2016, The Carter Center, Syrian Civil Coalition (Tamas), U.N. ESCWA, Norwegian Peacebuilding Resource Center (NOREF) and swisspeace, convened a series of workshops on redrafting the constitution.<sup>49</sup> In April 2016, the Karibu Foundation (based in Norway) sponsored the "Conference on the Principles of a Future Syrian Constitution," held outside of Vienna and organized by the International Peace Initiative for Syria (IPIS).

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<sup>47</sup> UNESCWA, National Agenda for the Future of Syria website, <https://www.unescwa.org/sub-site/national-agenda-future-syria> [accessed 26 November 2016].

<sup>48</sup> IFE-EFI website, <http://www.efi-ife.org/news/international-conference-gendered-approach-constitution-building> [accessed 26 November 2016].

<sup>49</sup> The Carter Center, 2016, *Syria's Transition Governance and Constitutional Options Under UN Security Council Resolution 2254*, available at: [https://www.google.com/url?sa=t&rxct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0ahUK Ewivqq3z\\_cbQAhWd2YMKHQ2RAbIQFggxMAQ&url=https%3A%2F%2Fwww.cartercenter.org%2Fresources%2Fpdfs%2Fpeace%2Fconflict\\_resolution%2Fsyria-conflict%2Fprinciples-and-constitutional-provisions-may-8-2016.pdf&usg=AFQjCNGRXkTSjclGcKioHNTWkK1r7UW1Wg&sig2=xvpR-KQql\\_vCX0GerJB2zA&bvm=bv.139782543,d.eWE](https://www.google.com/url?sa=t&rxct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0ahUK Ewivqq3z_cbQAhWd2YMKHQ2RAbIQFggxMAQ&url=https%3A%2F%2Fwww.cartercenter.org%2Fresources%2Fpdfs%2Fpeace%2Fconflict_resolution%2Fsyria-conflict%2Fprinciples-and-constitutional-provisions-may-8-2016.pdf&usg=AFQjCNGRXkTSjclGcKioHNTWkK1r7UW1Wg&sig2=xvpR-KQql_vCX0GerJB2zA&bvm=bv.139782543,d.eWE) [accessed 29 November 2016].

## II. Recommendations

Recommendations for programming to improve the status of women in the Syrian legal system must take into account the uncertainty of the political makeup of a future Syria. While it is impossible to predict what that future looks like, there are actions that can be taken now to increase the capacity of Syrian legal professionals to take part in peace building and reconstruction post-conflict. Those efforts must engage female legal professionals in the transition process from the outset to ensure that women's legal needs and concerns are addressed in constitution drafting, legislative reform, and state-building and not deprioritized, as often happens in post-conflict setting where security issues are seen as paramount. In a patriarchal society such as Syria, this can be a moment of opportunity for women to take part in the rebuilding of their country in ways not previously open to them. The following recommendations provide actions aimed at increasing participation of Syrian women legal professionals, and women in general, in the transition process, whatever shape it takes.

1. *Coordinate with ongoing initiatives to ensure the active and equal participation of Syrian women lawyers and judges in efforts to amend the Syrian Constitution and laws in line with international standards on gender equality.* Coordination with other donor efforts is important not only to avoid duplication but also to ensure that women's voices are not sidelined to a "women only" process. Donors should recognize the highly controversial nature of this topic. In the decade prior to the conflict, several efforts were made by civil society and the Syrian government to amend these laws, efforts that faced fierce resistance.<sup>50</sup> To help increase the chance of successful adoption of amendments in a post-conflict Syria, efforts should be made to bring together those programs that work through the Syrian diaspora and those programs that work through Syrians within Syria. This will ensure that, whatever the makeup of a future Syria, a broad array of voices is heard and result in increased legitimacy, as efforts led predominantly by diaspora, particularly if funded by the West, may be perceived as outside-driven and not reflective of the values of the majority of Syrians.

2. *Increase legal aid and awareness programs for women inside and outside Syria.* Outside Syria, these efforts should work through existing networks of refugee populations, including in camps and community centers that provide refugee assistance. These programs should engage and train Syrian women lawyers on personal status laws and gender-based violence, which would serve the dual purpose of providing legal assistance to refugees and building the capacity of Syrian women lawyers outside Syria. Inside Syria, legal aid and awareness programs may meet with resistance and therefore must take place in safe spaces for women, such as through NGOs, women's centers,<sup>51</sup> and health clinics. Both inside and outside Syria, these programs should aimed to help women understand their rights under existing laws in marriage, divorce, custody and other family law matters. While women will still face barriers to exercising their rights, an educated female population is a pre-

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<sup>50</sup> Eijik, 2016, Chapter 3.

<sup>51</sup> Many Syrian local initiatives, as well as the EU/UK-funded Tamkeen project, have set up women's centers within opposition-held areas of Syria.

requisite to a more just and egalitarian future Syria. In addition, opportunities to address discrimination by male judges and the population in general should be considered in conjunction with awareness activities for women.

3. *Train Syrian women legal professionals in Turkey, Lebanon, and Jordan on comparative law, international standards, legislative drafting, and peace building and mediation.* To the extent possible, these trainings should bring together Syrian women lawyers from inside and outside Syria, to ensure that Syrian women lawyers from diverse areas and backgrounds are able to take part in peace building, transition, and reconstruction of the justice system.

4. *Connect Syrian women lawyers and judges with regional and international legal and judicial associations.* Connections with regional networks for women legal professionals will allow Syrian women jurists to benefit from the experience of other women jurists from nations that are in the process of transition, many of which share a common language and have similar societal, cultural and religious norms. Many countries in the region also share a common legal history, which is reflected in their personal status codes, and regional networks would allow for sharing of legal reform experiences in the area of family law. Connections with international networks will broaden the knowledge of Syrian women jurists and allowing them to draw upon global expertise.

5. *Fund scholarships for law students whose studies have been interrupted.* Interviewees expressed interest in scholarships in regional law faculties, including those in Lebanon, Jordan, Egypt, Tunisia, and Algeria, as the law in those countries is similar to Syrian law and diplomas from many of the law faculties in those countries are recognized in Syria. As women's attendance at law faculties outside Syria is lower than men, programs should ensure that at least 50% of the participants are women. Interviewees also specifically requested that these opportunities not be limited to those under a certain age. With the conflict now in its 6th year, many of the displaced are older and have equally had their opportunities disrupted. Higher educational opportunities, such as masters degree programs, should also be considered, and older experience lawyers would also benefit greatly from these programs. Programs that supplement legal education programs for Syrian youth, such as skills training in areas such as conflict resolution and legislative drafting (areas not usually addressed in university law curriculum) would better prepare law students to participate in rebuilding the Syrian justice sector.

6. *Utilize the great wealth of talent and skills within the Syrian refugee legal community to strengthen host-country legal support to Syrian refugee populations.* Syrians outside Syria repeatedly voiced their frustration that few Syrians are hired to assist other Syrians. This is due to a host of factors, including resistance from host country governments and bar associations, the difficulty of registering Syrian-led organizations in neighboring countries, and a lack of training on the financial systems required to receive donor funding. While there are challenges, it is important to utilize the large body of talent and skills in the refugee community, including lawyers and judges whose legal skills are currently languishing. To the extent possible, donors should assist judges and lawyers, particularly women judges and lawyers, to establish CSOs with the institutional and

financial capacity to enable international funding, and use their leverage with host governments to enable these organizations to work in their own communities to address gaps in host-country legal support. However, recognizing these barriers may be difficult to overcome, in the near-term or as an alternative, donors should support networking of Syrian women lawyers and judges with host-country CSOs that may be more open to cooperation with their counterparts, such as women's legal organizations or documentations centers and projects in need of increased professional capacity.

## About ABA ROLI

For more than 25 years, and through our work in more than 100 countries, the American Bar Association Rule of Law Initiative (ABA ROLI) and our partners have sought to strengthen legal institutions, to support legal professionals, to foster respect for human rights and to advance public understanding of the law and of citizen rights.

In collaboration with our in-country partners—including government ministries, judges, lawyers, bar associations, law schools, court administrators, legislatures and civil society organizations—we design programs that are responsive to local needs and that prioritize sustainable solutions to pressing rule of law challenges. We employ rigorous and innovative monitoring and evaluation approaches in assessing the quality and effectiveness of our programs.

ABA ROLI has roughly 500 professional staff working in the U.S. and abroad, including a cadre of short- and long-term legal specialists, volunteers, interns and third-party contributors, who in fiscal year 2016 alone contributed \$3.2 million in pro bono legal assistance.



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