

## **1. Executive Summary**

### **1.1 Improvements**

Regarding the human rights of women, Syria has undertaken certain measures for improvement, and women have attained a level of decision-making positions that exceeds most other countries in the region. Ms. Najah Al Attar was named Vice-President of Syria for cultural affairs in March 2006, a first for an Arab woman in the region, and women hold approximately 9% of judgeships in Syria and 12.5% of the seats in Parliament.<sup>1</sup>

On issues of violence against women, the Syrian Commission for Family Affairs—a government body—has prepared a draft national plan on protection of women in addition to holding a nationwide media campaign on eliminating violence against women.<sup>2</sup> Syria passed an anti-trafficking law in 2010 after opening two shelters for female victims of trafficking, in Damascus in 2008 and Aleppo in 2009.<sup>3</sup>

In 2011, the sentence for committing an honor killing was more than doubled from two years (as set in 2010) to five to seven years<sup>4</sup>, part of a chain of outcomes from the National Conference on Honor Crimes that was convened by the Commission for Family Affairs and endorsed by the Grand Mufti, senior Muslim cleric of Syria, after the widely publicized honor killing of 16 year-old rape victim Zahra al Azzo by her brother in 2007.<sup>5</sup>

The constitution and international treaties to which the State is signatory define a significant commitment and intention to uphold the human and legal rights for women and equal protection under the law. Article 25 of the Syrian constitution states that “Syrian citizens are equal before the law and have equal rights and duties,” and Article 45 states, “The state guarantees to women all opportunities that will allow them to contribute fully and effectively to political, social, cultural, and economic life, and will work to lift all constraints on their development and their participation in building society.” Syria ratified CEDAW in 2003, albeit with several reservations, and in 2007, the Commission for Family Affairs reported it has prepared a training program on using CEDAW as a legal tool in national courts.<sup>6</sup>

### **1.2 Violence against women and girls remains a major human rights concern**

A study on violence against women conducted in 2005 by the Syrian Commission on Family Affairs and other agencies found that nearly one in every four women have been beaten with the use of fists or sticks, most often by a husband, father, or brother.<sup>7</sup> In a nation that has 6.5 million women over the age of 15, that means an estimate of 1.5 million women have experienced violence. Yet there is only one hotline (Trust Hotline, established in 2007) and one officially licensed shelter in Syria (Hope Oasis, opened in 2008) for women experiencing the threat or incidence of domestic violence.

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<sup>1</sup> Inter-Parliamentary Union, <http://www.ipu.org/wmn-e/classif.htm>

<sup>2</sup> Committee to Eliminate Discrimination Against Women, May 2007, <http://www.un.org/News/Press/docs/2007/wom1630.doc.htm>

<sup>3</sup> Syrian law exposes the hidden face of human trafficking, DayPress News, Syria, June 28, 2010, <http://www.dp-news.com/pages/detail.aspx?l=2&articleid=43517>

<sup>4</sup> Sentence of honour killings tripled in Syria, January 11, 2011, DayPress News, <http://www.dp-news.com/pages/detail.aspx?l=2&articleid=69794>

<sup>5</sup> Response of the Government of the Syrian Arab Republic to the questionnaire on violence against women, July 2009, UN Secretary-General's database on violence against women <http://webapps01.un.org/vawdatabase/searchDetail.action?measureId=27905>

<sup>6</sup> Committee to Eliminate Discrimination Against Women, May 2007, <http://www.un.org/News/Press/docs/2007/wom1630.doc.htm>

<sup>7</sup> “Violence Against Women Study, Syria 2005,” by Syrian Commission for Family Affairs, General Women's Union, UNIFEM, et al

Carrying out the strategies and policies outlined in Chapter 23 on “Women Empowerment” in the government’s 10<sup>th</sup> 5-Year Plan (2005-2010), which clearly stated the need to eradicate violence against women<sup>8</sup>, the Syrian Commission for Family Affairs drafted national plans of action for the protection of women, the protection of children, amended versions of the Personal Status Law, the Criminal Code, and the Child Protection law, and withdrawal of the reservations on the Articles of CEDAW.<sup>9</sup> Almost all of these legislations and policies still await approval or action by the State.

### 1.3 Recommendations for actions by the State

Several key measures for action by the State to improve the human rights of women and girls and their safety from violence include:

- **Draft, approve, and enforce laws against domestic violence**
- **Amend Article 489 in the penal code to criminalize marital rape**
- **Amend the criminal code further to remove mitigating factors from the punishment of honor-related crimes against women**
- **Amend the Personal Status Law of 1953 to reform or remove discriminatory articles**
- **Withdraw the State's reservations to CEDAW Article 2 (discriminatory laws), Article 9 (citizenship), Article 15 (residence), and Article 16 (marriage)**
- **Take measures to protect refugee women from honor killings, domestic violence, trafficking, and forced repatriation by allowing refugees to seek legal employment**

## 2. Main Issues of Concern and Recommendations

### 2.1 Recommendation: Draft, approve, and enforce laws against domestic violence and enact campaigns, comprehensive services, and studies

A national study by the government’s Commission for Family Affairs in 2005 found that nearly one in every four women surveyed had experienced violence, the majority at the hands of a male family member using fists or sticks.<sup>10</sup> The study concluded that a campaign must be mounted to increase awareness among both women and men about the importance of respecting women’s dignity and status and treating them well, as well as the negative impact of abuse. The study also recommended stiffer penalties for those who abuse women as well as further research and field studies to monitor changes in all forms of violence against women. In 2007, the head of the Commission for Family Affairs stated to the UN CEDAW Committee that the agency has been drafting a law against domestic violence since 2006, and cooperating with other governmental and civil society bodies to develop a draft national plan for eradicating violence and securing appropriate shelters.<sup>11</sup> Although the Ministry for Social Affairs and Labor has studied the impact of gender-based violence on the Syrian economy and families and issued guidelines for governance and counseling of victims at the official licensed shelter<sup>12</sup>, there remains a need for a national law against domestic violence as well as a commitment of nationwide resources to stem the incidence of domestic violence at large. Criminalizing domestic violence as well as allocating the needed resources, awareness campaigns, and services for victims of domestic violence is essential to protecting women and girls and eradicating gender-based violence,

<sup>8</sup> Committee to Eliminate Discrimination Against Women, May 2007, <http://www.un.org/News/Press/docs/2007/wom1630.doc.htm>

<sup>9</sup> Committee to Eliminate Discrimination Against Women, May 2007, <http://www.un.org/News/Press/docs/2007/wom1630.doc.htm>

<sup>10</sup> “Violence Against Women Study, Syria 2005,” by Syrian Commission for Family Affairs, General Women’s Union, UNIFEM, et al

<sup>11</sup> Committee to Eliminate Discrimination Against Women, May 2007, <http://www.un.org/News/Press/docs/2007/wom1630.doc.htm>

<sup>12</sup> National Situation Analysis Report: Women’s Human Rights and Gender Equality – Syria, 2009-2010, Euromed Gender Equality Programme, Belgium

fulfilling the aim stated in the State's 10<sup>th</sup> Five Year Plan, Chapter 23.

## **2.2 Recommendation: Amend Article 489 in the penal code to criminalize marital rape and amend Article 508 to remove consideration of a rapist marrying his victim**

Despite recent amendment by Presidential Decree in January 2011, Syria's penal code specifically states in Article 489 that a man can be convicted of rape if he forces "any woman other than his wife" to have sex.<sup>13</sup> This definition of rape denies a rape victim protection under the law if the offender is a man to whom she is married, while a man who rapes a girlfriend, stranger, acquaintance or family member faces a minimum of nine years of hard labor and a maximum of 21 years if the victim is younger than 15. This exception made by law when the victim is the offender's spouse contradicts Article 25 of the constitution which states that "Syrian citizens are equal before the law and have equal rights and duties."

The lack of protection and prosecution in cases of spousal rape is even more cruel and unequal when Article 508 of the criminal code is considered, which gives a rapist a reduced sentence of two years and considers whether he marries his victim and does not divorce her within five years. This effectively sentences a rape victim to three to five years or more of spousal rape for which she has no legal recourse, after which time he can divorce her by repudiation but she can only initiate a divorce by obtaining a judicial decree. This potential outcome would place a chilling effect on women and girls who might otherwise come forward to report a rape to the authorities.

## **2.3 Recommendation: Amend the criminal code further to remove mitigating factors from the punishment of honor-related crimes against women**

Estimates state that 150 to 300 women are murdered in Syria each year in honor killings. Syria's penal code contains specific articles that reduce sentences for honor killings, citing attenuating circumstances. Consequently, the police are less likely to arrest men accused of violence against female relatives, as judges tend to show leniency to the perpetrators. The unlikelihood of facing justice for committing these crimes emboldens families to perpetuate acts of honor killing, and contributes to women and girls being unsafe and unprotected from honor crimes and family violence in Syria.

Although the sentence in Syria for an honor killing that occurs after witnessing adultery by one's wife or female relative (Article 548) has been raised as of January 2011 to 5-7 years, this is still less than half the minimum sentence of 15 years mandated for convictions for premeditated murder in Syria. In 2008, the Syrian Commission for Family Affairs and the state-sponsored National Forum on Honor Crimes recommended repealing Article 548 altogether.

Article 192 remains unchanged and permits judges to reduce legal penalties in cases when an individual's motive for murder is a sense of honor.<sup>14</sup> The Presidential Decree that amended Article 548 ignored Articles 240, 241 and Article 242 which are written in the same spirit as Article 192, allowing judges to reduce the punishment if a murder was committed in rage and motivated by any illegal act on the part of the victim. In the case of honor crimes, adultery typically constitutes the illegal act by the victim that warrants the perpetrator's acquittal or a reduced sentence. The legal definition and punishment for adultery differ for women and men. This is contrary to the Syrian constitution's Article 25 which states that "Syrian citizens are equal before the law and have equal rights and duties." This contradiction requires repealing the discriminatory articles of the criminal code that mitigate punishment of honor crimes committed against women.

<sup>13</sup> Sexism in the system, DayPress News, March 10, 2011 <http://www.dp-news.com/pages/detail.aspx?l=2&articleid=77337>

<sup>14</sup> 2009 Human Rights Report: Syria, US Department of State, 2010

## **2.4 Recommendation: Amend Articles of Personal Status Laws discriminatory to women and girls, in a manner responsive to public demand for and constitutional guarantees of equal rights for all Syrian citizens**

Constitutional rights are the standard and basis upon which citizens' status and rights are determined. Thus, it is necessary to amend laws and articles that pre-date the constitution, today co-existing in violation of the rights guaranteed by the constitution. The laws enacted before the declaration of the Syrian constitution in 1971 include the Personal Status Law of 1953, which is based on Ottoman family law.<sup>15</sup> Many of the law's articles are contradictory with the constitution's guarantees in Article 25 that "Syrian citizens are equal before the law and have equal rights and duties." Public opinion in Syria also demonstrates a strong consensus for reform.

However, instead of reforming the law to expand rights of women, in 2009 a draft of a more restrictive Personal Status Law came to the public's attention. Women activists and government bodies working on women empowerment issues objected to the draft law as a step backwards for women's rights. In response to the concerted outcry, the draft was ultimately shelved.<sup>16</sup>

Reform of the personal status law by duty must conform to constitutional guarantees, a desire reflected in Syrian public opinion. In 2008 Karama published a survey of 2,855 Syrian citizens on attitudes toward reform of personal status laws.<sup>17</sup> When respondents were asked to rate the issues that they believe must be changed in Syria's legislation, the survey found that most respondents (80% of men and 91% of women) believe that arbitrary divorce has the most negative impact on women and the family. This requires a reconsideration of Article 117 of the personal status law, which gives a husband the unilateral right of divorce, without his wife's consent and for personal reasons. Women must seek a judge's decree to obtain a divorce.

Survey respondents were also in favor of reform of other articles that discriminate unequally against women in the Syrian Personal Law, relating to the legal age of marriage (18 for boys and 16 for girls), guardianship and consent to marriage, the prohibition for Muslim women to marry non-Muslims, the practice of polygamy, rights concerning divorce and repudiation which are largely a male prerogative, limited child custody rights for the mother, and the obligation for a wife to obey her husband in return for maintenance.<sup>18</sup>

## **2.5 Withdraw the State's reservations to CEDAW, particularly on Article 2 (discriminatory laws), Article 9 (citizenship), Article 15 (residence), and Article 16 (marriage)**

On March 28, 2003, Syria acceded to and ratified CEDAW, the Convention on the Elimination of All Forms of Discrimination Against Women, but the State still holds reservations on Article 2, 9, 15 (4), 16 (1)(g), 16 (2) and 29 (1). These reservations conflict with the viable enactment of CEDAW by the State. For reference, Article 2 resolves to eliminate, amend, or repeal all laws and penal codes that are discriminatory to women; Article 9 grants equality for women and men in matters of citizenship and nationality, and over their children's nationality; Article 15 (4) concerns freedom of movement, residence, and domicile; Article 16 regards marriage and its betrothal and dissolution; and Article 29 (1) concerns arbitration between States in the event of a dispute. In 2007, reporting for the first time to

<sup>15</sup> Survey in Syria on the Need to Change Laws Prejudicial to Women, Karama, 2008

<sup>16</sup> Personal Status Matters, Syria Today, August 2009, <http://www.syria-today.com/index.php/august-2009/377-society/2443-personal-status-matters>

<sup>17</sup> Survey in Syria on the Need to Change Laws Prejudicial to Women, Karama, 2008

<sup>18</sup> National Situation Analysis Report: Women's Human Rights and Gender Equality – Syria, 2009-2010, Euromed Gender Equality Programme, Belgium

the expert UN Committee that monitors implementation of the CEDAW treaty, the state delegation from Syria said the government had decided to withdraw its reservation to Article 2 as well as 9, 15, and 16, but “ran out of time” before the departure to New York for the session.<sup>19</sup> However, the withdrawal of these reservations has appeared to remain on hold and has not yet been fulfilled.

Because CEDAW is a ratified treaty in Syria, and Article 25 in the constitution declares, “Syrian citizens are equal before the law and have equal rights and duties,” the reservations on CEDAW Articles should be withdrawn to create compliance with the constitutional framework in Syria, and discriminatory national laws should be repealed or amended, particularly regarding nationality, divorce, the right of the custodial parent to live in the marital home, and the legal guardianship of children—all of which provide privileges and rights for men that are denied to women in Syria under current national laws which need to be amended or repealed.

## **2.6 Recommendation: Take measures to protect refugee women from honor killings, domestic violence, trafficking and forced repatriation by allowing refugees to seek legal employment**

Reports from UN agencies working in Syria suggest high levels of family violence among the more than one million Iraqi and 300,000 Palestinian refugees in Syria<sup>20</sup>, affecting in turn Syrian women who marry refugees. By law, Syrian women cannot provide citizenship or the right to legal employment for their spouse.<sup>21</sup> The economic and immigration difficulties that arise from family members being unable to live as citizens in Syria bears a risky burden on the Syrian wife or mother, putting her at risk of the factors that trigger or exacerbate domestic violence and increase her vulnerability to harm, poverty, and abandonment.

Syria is signatory to the 1951 Refugee Convention and its 1967 Protocol and CEDAW, making it responsible for eliminating discrimination against and protecting refugee women within its borders. Having fled conflict in pursuit of an easier and more secure life, many Iraqi and other refugee women are instead finding the opposite. Iraqi refugees in Syria are prohibited from working legally and thus forced to turn to informal or illicit work to earn a living. Relief workers confirm that deteriorating and desperate living conditions among refugees, combined with Syria’s already high unemployment levels, are pushing increasing numbers of Iraqi refugee women—and even young girls—into survival sex or forced prostitution.<sup>22</sup>

The penal code in Syria calls for foreign women engaged in sex work to be deported. For Iraqi refugee women, this constitutes a violation of their right to *non-refoulement*, as granted by Article 3 of the 1951 Refugee Convention.<sup>23</sup> A policy that makes it unlawful to work and then deports people for breaking the law puts Iraqi refugee women, particularly those driven to survival sex or forced into prostitution, at increased risk of forced repatriation and potential honor killings by their families in Iraq or in Syria if the offense of prostitution is revealed. The right to work legally in regular employment in Syria would enable many women to provide for their families without risking their lives or their refugee status.

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<sup>19</sup> Committee to Eliminate Discrimination Against Women, May 2007, <http://www.un.org/News/Press/docs/2007/wom1630.doc.htm>

<sup>20</sup> 2011 UNHCR Country Operations Profile – Syrian Arab Republic, <http://www.unhcr.org/pages/49e486a76.html>

<sup>21</sup> Syria: Fears over gender-based violence in Iraqi community, IRIN, April 6, 2009, <http://www.irinnews.org/Report.aspx?ReportId=83800>

<sup>22</sup> In Syria, Iraqi Refugee Daughters Risk Being Sold, WeNews, October 12, 2010, <http://www.uruknet.info/?new=70694>

<sup>23</sup> Report on Refugee and Stateless Women across the Arab Region: Stories of The Dream of Return, the Fear of Trafficking and Discriminatory Laws, Karama, 2008