

**UNITED NATIONS  
COMMITTEE TO END ALL FORMS OF  
DISCRIMINATION AGAINST WOMEN (CEDAW)  
58TH SESSION, GENEVA, SWITZERLAND  
JULY 2014**

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**SEEKING ACCOUNTABILITY AND DEMANDING CHANGE:  
A REPORT ON WOMEN'S HUMAN RIGHTS VIOLATIONS  
IN SYRIA BEFORE AND DURING THE CONFLICT**

**IN RESPONSE TO  
THE SECOND PERIODIC REPORT OF  
THE SYRIAN ARAB REPUBLIC**

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(in alphabetical order)**

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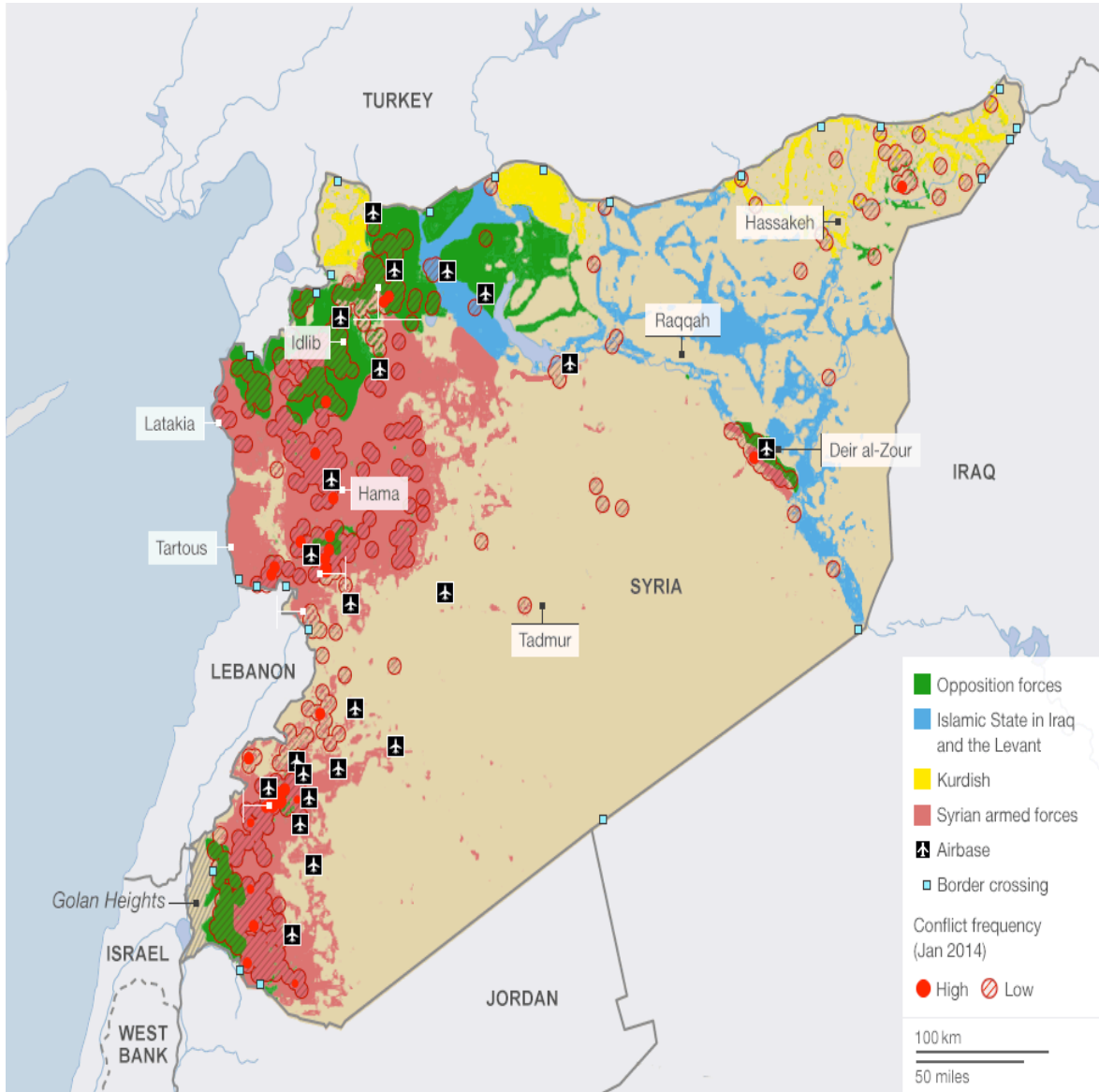
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**This Report was written in consultation and collaboration with Syrian Women's  
organizations and activists.**

# MAP OF THE SYRIAN CONFLICT\*

March 2014



\*BBC News, Syria Mapping the Conflict, (Mar. 2014), available at, <http://www.bbc.com/news/world-middle-east-22798391>

## LIST OF ACRONYMS

CERD	Convention on the Elimination of All Forms of Racial Discrimination
CIHRS	Cairo Institute for Human Rights Studies
CAT	Convention Against Torture
CRC	Convention on the Rights of Child
CRTD-A	Collective for Research and Training on Development – Action
CUNY	City University of New York (School of Law)
GLPP	Gender Law and Policy Project (CUNY Law School)
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
IDP	Internally Displaced Persons
ICESCR	International Covenant on Economic, Social and Cultural Rights
IRC	International Rescue Committee
IWHR	International Women’s Human Rights Clinic (CUNY Law School)
SWL	Syrian Women’s League
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children’s Fund
UNFPA	The United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
WILPF	Women’s International League for Peace and Freedom
WHO	World Health Organization

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## INTRODUCTION

Discriminatory laws and practices in Syria significantly impede women's ability to freely exercise their basic rights. Syria's recent armed violence and political instability has contributed to egregious human rights violations against women and girls. Since the beginning of Syria's conflict in 2011, reports have revealed persistent patterns of gender-based violence perpetrated by both regime and opposition forces. Fears of stigmatization, coupled with widespread impunity for gender-based violence, mean that these acts go almost entirely unreported and unaddressed.

It is crucial now to strengthen the voices of Syrian women in advocacy to lay the foundation for redress for gender-based violence and for policy change in the future. The Syrian government continues to operate under a system that prevents women from participating in international and domestic political processes, perpetuates gender-based violence through discriminatory laws, and treats women as inferior to men in the areas of marriage, divorce, inheritance, citizenship, and property.

States Parties' international obligations to protect the rights of women are reiterated year after year by UN agencies and treaty bodies. Having ratified the Convention on the Elimination of All Forms of Discrimination Against Women ("CEDAW") in April 2003, Syria is obligated to uphold these standards. Further, Syria is a State Party to many of the principal international human rights treaties including the International Covenant on Civil and Political Rights ("ICCPR"), the Convention on the Elimination of All Forms of Racial Discrimination ("CERD"), and the International Covenant on Economic, Social and Cultural Rights ("ICESCR"). Despite continued efforts to ensure compliance with Syria's international human rights obligations, the situation of women and girls remains critical due to a persistent lack of government accountability for continuous violations that occur with impunity.

Syria's Constitution, first adopted in 1973 and amended in 2012, designates to the People's Assembly the function of approving international treaties and conventions that are contrary to the provisions of the laws in force and that require new legislation. Also, the Constitution grants the President of Syria the power to conclude international treaties and agreements in accordance with provisions of the Constitution and rules of international law.

This report specifically documents violations of several rights contained in CEDAW, targeting women, girls, and children: gender-based violence exacerbated by the conflict (Articles 1, and 3); women's exclusion from peace negotiations and domestic political processes (Articles 4, 7(a) & (b), and 8); discriminatory nationality laws that deny Syrian women and children citizenship (Article 9); women's lack of access to healthcare (Article 12); and legislation that perpetuates gender-based violence, forced marriages, and discriminatory practices in the areas of divorce, marital property, and inheritance (Articles 2, 15 and 16).

This Report was written by MADRE and CUNY Law School in consultation and collaboration with Syrian Women's organizations and activists. Because of the risk of retaliation to those who contributed to this report, including interviewees and activists, names and other identifying factors have been kept anonymous.



This report is submitted to you by MADRE<sup>1</sup> the International Women’s Human Rights (IWHR) Clinic at the City University of New York (CUNY) School of Law, The International League for Peace and Freedom (WILPF)<sup>2</sup> and the Gender Law and Policy Project (GLPP) at the City University of New York (CUNY).<sup>3</sup> This report supplements the information set forth in the second periodic report submitted by the Syrian Arab Republic to the Committee for its review of Syria during the 58<sup>th</sup> Session to be held in July 2014. We hope its findings will be useful to the CEDAW Committee, and will serve as a catalyst for future advocacy efforts.

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<sup>1</sup> MADRE is an international women’s human rights organization that works in partnership with community-based women’s organizations worldwide to address issues of health and reproductive rights, economic development, education and other human rights.

<sup>2</sup> WILPF is an international non-governmental organization that works to ensure that women are represented at all levels in the peace-building process, to defend women’s human rights, and to promote social, political, and economic justice.

<sup>3</sup> Widely recognized for its expertise and contributions to gender jurisprudence and human rights practice, the IWHR Clinic at CUNY Law School advocates before international and regional human rights bodies and national and local courts and legal institutions. Project and cases seek to address gender discrimination and sexual violence, advance reproductive and sexual rights and economic and social rights, and promote women's participation and empowerment.

**ARTICLE 1: DISCRIMINATION AGAINST WOMEN IN CONNECTION WITH ARTICLE 3: THE OBLIGATION TO ENSURE THE FULL DEVELOPMENT AND ADVANCEMENT OF WOMEN, AND ARTICLE 5: THE OBLIGATION TO ADDRESS GENDER-BASED STEREOTYPES AND CULTURAL PRACTICES THAT PERPETUATE GENDER-BASED DISCRIMINATION**

*The men raped [my two daughters] and my wife, forcing them onto the ground to do so. They raped them at the same time. When they began to rape my daughters, they forced me to raise my head and watch. They raped each of them three times. Then they forced me out of the chair and ordered me onto the ground. They raped me as well and ordered my wife and children to watch. The men were jeering and said, “Look at your father.” They destroyed me.\**

\*U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, Annex IX, ¶ 7, U.N. Doc. A/HRC/21/50 (2012).

Articles 1, 3 and 5 of the CEDAW Convention require States Parties to take affirmative steps to eliminate discrimination against women, and to ensure enjoyment of their civil, political, social, and economic rights on a basis of equality with men.<sup>4</sup> Gender-based violence is considered a form of discrimination against women under Article 1, and states must address gender-based violence committed by public authorities, as well as by private actors.<sup>5</sup> Under Article 3 States Parties must take measures to ensure the full development and advancement of women by guaranteeing them equal rights. Under Article 5, States Parties must address social and cultural practices that reinforce harmful stereotypes about women that are often used to justify and perpetuate gender-based violence, depriving women of their human rights and fundamental freedoms.<sup>6</sup>

**A. PATTERNS OF GENDER-BASED VIOLENCE EXISTED BEFORE THE CONFLICT AND ARE EXACERBATED BY THE CONFLICT**

In its 2007 review, before Syria’s conflict began, the CEDAW Committee, recognizing gender-based violence as a form of discrimination against women under the Convention, urged the Syrian government to give high priority to addressing violence against women and girls,<sup>7</sup> and to address cultural patterns and norms that perpetuate discrimination against women and girls.<sup>8</sup> The widespread patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society that the Committee noted in 2007 still persist in Syria today. They are the root cause of the disadvantaged position of women in all areas, including in the labour market and in political and public life.<sup>9</sup> These negative stereotypes,

<sup>4</sup> Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), art. 1-3, Dec. 18, 1979, U.N. Doc. A/RES/34/180.

<sup>5</sup> CEDAW Comm., *General Recommendation No. 19: Violence against women*, ¶ 6, 8-9.

<sup>6</sup> CEDAW, art. 5(a); CEDAW Comm., *General Recommendation No. 19: Violence against women*, ¶ 11.

<sup>7</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 20, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>8</sup> *Id.* at ¶ 28.

<sup>9</sup> *Id.* at ¶ 27.

which serve as a barrier to women's empowerment, have also worked to exacerbate violence and discrimination against women in the context of the conflict.

Recognizing that conflict exacerbates gender-based violence, the CEDAW Committee has condemned various States Parties for sanctioning gender-based violence as a weapon of war, while also encouraging victim redress. In response to the Myanmar conflict, the Committee's 2008 review urged the government to put an end to sexual violence as a war tactic, "to prosecute and punish the perpetrators, including military personnel... to carry out human rights education and gender-sensitization training for all law-enforcement and military personnel," and to safeguard victims' access to justice, during and post-conflict.<sup>10</sup> The Committee has made similar recommendations to investigate, prosecute, and punish acts of violence against women, including sexual violence in the context of war in its 2012 review of Indonesia,<sup>11</sup> and its 2011 reviews of Ethiopia, and Nepal.<sup>12</sup>

Studies confirm that gender-based violence was prevalent throughout Syria prior to the start of the conflict in 2011.<sup>13</sup> While the government has failed to keep official statistics on rape and other forms of sexual violence in Syria pre-conflict, local activists state that rape was a serious problem in the country, with at least a reported 1,300 cases of rape in 2009.<sup>14</sup> The actual numbers are likely higher, as these studies also show that Syrian women rarely report their experiences, owing mainly to the threat of severe social stigma and exclusion, as well as to justified fears of further violence.<sup>15</sup> In addition, no statistics on spousal rape exist.<sup>16</sup> Deep social stigma and patriarchal norms around rape<sup>17</sup> in Syria encourage "honor killings" of rape victims, and lead to rape victims being pressured by their family members to marry perpetrators.<sup>18</sup> Syria's penal code facilitates impunity for rape and reinforces this pressure on women and girls to marry

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<sup>10</sup> CEDAW Comm., *Concluding Observations: Myanmar*, ¶ 25, U.N. Doc. CEDAW/C/MMR/CO/3 (2008).

<sup>11</sup> The Committee urged the Indonesian government to investigate, prosecute, and punish acts of violence against women perpetrated by police, military, security and defense forces, as well as private actors. CEDAW Comm., *Concluding Observations: Indonesia*, ¶ 28, U.N. Doc. CEDAW/C/IDN/CO/6-7 (2012).

<sup>12</sup> The Committee recommended the State party to investigate, prosecute, and punish militia groups responsible for rape and other crimes committed against women and children in the context of armed conflict, and to take measures to prevent such crimes. CEDAW Comm., *Concluding Observations: Ethiopia*, ¶ 23, U.N. Doc. CEDAW/C/ETH/CO/6-7 (2011); The Committee recommended Nepal to investigate, prosecute, and punish acts of sexual violence perpetrated by armed forces, and safeguard women's access to justice for complaints relating to sexual violence. CEDAW Comm., *Concluding Observations Nepal*, ¶ 36, U.N. Doc. CEDAW/C/NPL/CO/4-5 (2011).

<sup>13</sup> Freedom House, *Women's Rights in the Middle East and North Africa 2010: Syria*, 2 (2010). "Patriarchal values in society and the authoritarian political system leave women vulnerable to gender-based violence, both inside and outside the home." Id.

<sup>14</sup> U.S. DEPARTMENT OF STATE, 2010 HUMAN RIGHTS REPORT: SYRIA 32 (2011), available at <http://www.state.gov/j/drl/rls/hrrpt/2010/nea/154473.htm>.

<sup>15</sup> Freedom House, *Women's Rights in the Middle East and North Africa 2010: Syria*, 11 (2010); See also, The International Rescue Committee (IRC), Commission on Syrian Refugees, *Syria: A Regional Crisis*, 7 (2013).

<sup>16</sup> OECD Development Centre, *Social Institutions and Gender Index: Syria Discriminatory Family Code*, (2012), available at, <http://genderindex.org/country/syrian-arab-republic>.

<sup>17</sup> Many survivors do not report rape because of the stigma associated with it. Melissa Jeltsen, *Syria's Rape Crisis: Women Under Siege Project Maps Sexual Violence*, Huffington Post (April 3, 2013).

<sup>18</sup> Freedom House, *Women's Rights in the Middle East and North Africa 2010*, 7 & 11 (2010); Interview Conducted by the City University School of Law International Women's Human Rights Clinic, The Syria Project: Antakya, Turkey. (Dec. 2013).

their rapists, by allowing rapists to escape punishment if they marry their victims,<sup>19</sup> and by excluding spousal rape “as a punishable offense under the legal definition of rape.”<sup>20</sup> (See page 36 for information on marital rape).

This pre-existing impunity and social stigma surrounding rape and sexual assault worsens the armed conflict’s impacts on women and girls in numerous ways. For example, there is a prevailing belief that all women who are detained or imprisoned by armed actors are raped—an additional violation that does in fact occur, but not in all cases. Upon release from detention or checkpoints, and after house raids, women are often alienated from their families and viewed as “unfit” for marriage, and in some instances divorced or killed, because family members believe they were raped.<sup>21</sup> In one recent case a man shot his daughter when an armed group approached her, to prevent the “disgrace” of rape.<sup>22</sup> In another case, government forces detained and interrogated a woman at a checkpoint for two hours; her husband subsequently divorced her because he assumed she had been raped and believed she no longer had a “good” reputation.<sup>23</sup>

The fear of sexual violence and its consequences is also a trigger in the displacement of many families.<sup>24</sup> Sadly, displacement puts women and girls at an even greater threat of sexual violence and human trafficking. Women and girls are especially at risk “during flight and in the displacement phase, owing to family separation, lack of basic structural and social protections, and limited safe access to services.”<sup>25</sup>

*I was trying to help displaced families in an area under siege, bringing them goods they need to survive. The government forces arrested me and charged me for helping the people displaced in opposition-controlled areas. I was arrested and put in detention for two months where they regularly beat me. When they finally let me go, I fled the country.\**

\* IWHR Clinic, CUNY Law School, Interview with former Syrian detainee, Antakya Turkey (May 2014).

<sup>19</sup> Freedom House, *Women’s Rights in the Middle East and North Africa 2010: Syria*, 12 (2010).

<sup>20</sup> *Id.* 2.

<sup>21</sup> IWHR Clinic at CUNY Law School, interview with Syrian activist, Antakya, Turkey. (Dec. 2013); U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, Annex IX, ¶ 2, U.N. Doc. A/HRC/21/50 (2012). “In one incident, the commission was informed that a female rape victim was subsequently killed by her brother-in-law to—preserve the honour of the family.... Several interviewees stated that female rape victims had been abandoned by their husbands and consequently struggled to survive. *Id.*

<sup>22</sup> The International Rescue Committee (IRC), Commission on Syrian Refugees, *Syria: A Regional Crisis*, 7 (2013). Women “are afraid of being killed by family members if they report incidents, since a raped woman or girl is thought to bring shame to a family.” *Id.*

<sup>23</sup> IWHR Clinic at CUNY Law School, interview with Syrian refugee, Antakya, Turkey. (Dec. 2013).

<sup>24</sup> U.N. Security Council, Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Hawa Bangura, 6, U.N. Doc. S/PV.6949 (2013); U.N. Sec’y Gen., 67<sup>th</sup> Session, *Protection of and assistance to internally displaced persons: situation of internally displaced persons in the Syrian Arab Republic*, ¶ 16, U.N. Doc. A/67/931 (2013); The International Rescue Committee (IRC), *Syria: A Regional Crisis, Commission on Syrian Refugees*, 6-7 (2013). U.N. Human Rights Council, 23<sup>rd</sup> Session, *Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶¶ 149-151 & 154-156, U.N. Doc. A/HRC/23/58 (2013).

<sup>25</sup> U.N. Sec’y Gen., 67<sup>th</sup> Session, *Protection of and assistance to internally displaced persons: situation of internally displaced persons in the Syrian Arab Republic*, ¶ 61, U.N. Doc. A/67/931 (2013).

Such fear of sexual violence committed by armed actors in Syria has unfortunately proven well founded, and cases of gender-based violence committed with complete impunity by armed actors are stacking up as the conflict progresses. Over the last three years, patterns of sexual violence perpetrated by both government and opposition forces have emerged. Numerous UN bodies and representatives, as well as NGOs, have documented widespread and systemic gender-based violence, with the UN warning that the conflict in Syria is increasingly marked by torture and sexual violence used “as a weapon of war to intimidate parties to the conflict destroying identity, dignity and the social fabrics of families and communities.”<sup>26</sup> Over the last two years, the UN Independent International Commission of Inquiry on the Syrian Arab Republic (the Commission) has consistently reiterated that the pattern and practice of sexual violence carried out in the conflict meets the standards for constituting crimes against humanity and war crimes.<sup>27</sup> In March 2013, the UN Secretary General reiterated the Commission’s finding that acts of sexual violence are part of a widespread and systematic attack by the government.<sup>28</sup>

The Commission has repeatedly confirmed a pattern of sexual violence as a weapon of war during house searches and at checkpoints, committed by Syrian government forces and government-controlled militia (Shabbiha).<sup>29</sup> Specifically, the Commission also documented numerous reports of rape, including gang rape, and other forms of sexual violence committed against women and girls believed to be affiliated with the opposition.<sup>30</sup> In several instances, government soldiers and Shabbiha members reportedly entered homes and raped women and girls in front of family members, sometimes killing the victims afterwards.<sup>31</sup> Reports and

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<sup>26</sup> U.N. News Centre, *Displacement in Syria giving way for serious gender-based crimes, warns UN official* (Feb. 26, 2013), available at, [http://www.un.org/apps/news/story.asp?NewsID=44230#.Uxc\\_HuddVr0](http://www.un.org/apps/news/story.asp?NewsID=44230#.Uxc_HuddVr0).

<sup>27</sup> U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 1 (Summary), U.N. Doc. A/HRC/21/50 (2012); U.N. General Assembly, 22<sup>nd</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 1 (Summary), U.N. Doc. A/HRC/22/59 (2013); U.N. General Assembly, 24<sup>th</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 1 (Summary), U.N. Doc. A/HRC/24/46 (2013).

<sup>28</sup> “In all instances [of sexual violence], the women were accused of supporting the anti-government armed groups, being involved in protests or being related to those involved with the armed groups or in protests. The commission found that such acts were perpetrated as part of a widespread attack directed against a civilian population, pursuant to or in furtherance of an organizational policy.” Report of the Secretary-General, *Sexual Violence in Conflict*, ¶¶ 84-87, U.N. Doc. A /67/792–S /2013/149 (2013).

<sup>29</sup> U.N. General Assembly, 22<sup>nd</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶¶ 106-111, U.N. Doc. A/HRC/22/59 (2013); During the first half of 2012, the Commission recorded multiple incidents of sexual violence committed by government soldiers and Shabbiha militia members in towns including Homs, Al-Haffe, Zabadani and various locations in Hama, Idlib and Aleppo governorates. The governorates of Dar’a and Homs were some of the main protest hubs and have therefore been the targets of the harshest repression by government forces. U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶¶ 23, 98-99 & Annex IX, ¶ 5, U.N. Doc. A/HRC/21/50 (2012).

<sup>30</sup> Id. See also, Security Council, *Report of the Secretary-General on Children and Armed Conflict in the Syrian Arab Republic*, ¶ 36, U.N. Doc. S/2014/31 (2014).

<sup>31</sup> The Commission also found that the rapes that occurred during the military operations in “Homs city in February and March 2012 and in Al-Haffe in June 2012, as part of a widespread or systematic attack against a civilian population, could be prosecuted as crimes against humanity.” U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 28. U.N. Doc. A/HRC/21/50 (2012); forces will often abduct women “as a form of retribution for the political activities of their relatives.... In some cases when the abductors cannot use the women for prisoner exchanges, the abducted women have been raped and killed.” Human Rights Council, 23<sup>rd</sup> Session, *Written statement submitted by the Cairo Institute for Human*

interviews indicate that government forces and government-affiliated militias are systematically assaulting and torturing women and girls at checkpoints,<sup>32</sup> during house searches and raids,<sup>33</sup> and in detention,<sup>34</sup> particularly in areas perceived to be sympathetic to the opposition.<sup>35</sup> According to the Commission's 2013 report, acts of torture committed by state actors and government-controlled militia members included burning, summary executions, and physical and sexual violence.<sup>36</sup> (See highlighted cases below.) Through its own investigations, the Commission has also identified and disclosed the names of commanding officers and officials at the highest levels of government, along with "army units, security agencies, and their branch offices" who are believed to be responsible for crimes against humanity and gross human rights violations.<sup>37</sup> In its 2012 review of Syria, the CAT Committee reprimanded the regime for using state sanctioned violence to target vulnerable communities, and demanded that Syria "put an immediate end to all attacks against its population, especially...women, children."<sup>38</sup> The following are but a few examples of the numerous documented instances of sexual violence being used as a form of torture in Syria.

- In October 2012, government armed forces entered a private family residence, threatening to kill a woman's children if she did not reveal where her husband was hiding.<sup>39</sup> When she refused to say where he had gone, she was held by the head, raped, and then killed in front of her six children.<sup>40</sup>

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*Rights Studies (CIHRS), a non-governmental organization in special consultative status*, 3, U.N. Doc. A/HRC/23/NGO/73 (2013).

<sup>32</sup> One woman recounted the arbitrary nature by which government officials are detaining women. She described her own experience walking downtown in Aleppo to run an errand, where a man affiliated with the government stopped her because she was wearing sneakers and walking quickly. She was kept in a room and interrogated for hours, where it was later revealed that the government was instructed to stop and arrest any women who were wearing sneakers or walking quickly. IWHR Clinic at CUNY Law School, interview with Syrian service provider, Gazientep, Turkey (Dec. 2013).

<sup>33</sup> There are multiple stories of women being raped in their homes in Aleppo. IWHR Clinic at CUNY Law School, interview with Syrian service provider, Gazientep, Turkey. (Dec. 2013); U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶¶ 98-99, U.N. Doc. A/HRC/21/50 (2012).

<sup>34</sup> IWHR Clinic at CUNY Law School, interview with Syrian refugee, Antakya Turkey (Dec. 2013).

<sup>35</sup> International Federation for Human Rights, *Violence Against Women in Syria, Breaking the Silence*, 12 (2012); U.N. Sec'y Gen., 67<sup>th</sup> Session, *Protection of and assistance to internally displaced persons: situation of internally displaced persons in the Syrian Arab Republic*, ¶ 60, U.N. Doc. A/67/931 (2013); This Committee has recognized sexual violence as a weapon of war "to humiliate, dominate, instill fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group." CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, ¶ 35.

<sup>36</sup> Human Rights Council, *Independent International Commission of Inquiry on the Syrian Arab Republic*, 1 (Summary), U.N. Doc. A/HRC/23/58 (2013).

<sup>37</sup> U.N. General Assembly, 19<sup>th</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 87, U.N. Doc. A/HRC/19/69 (2012).

<sup>38</sup> In 2012, the CAT Committee noted the "[w]idespread use of torture and cruel and inhuman treatment of detainees, individuals suspected of having participated in demonstrations, journalists, web bloggers, defectors of security forces, persons wounded or injured, women and children," as well as independent human and civil rights organizations, anti-government groups, and religious activists, in defiance of international human rights standards. Committee against Torture, *Concluding Observations for Syrian Arab Republic*, ¶¶ 4-5, 20(a) & 23(b), U.N. Doc. CAT/C/SYR/CO/1/Add.2 (2012).

<sup>39</sup> IWHR Clinic at CUNY Law School, interview with Syrian refugee, Antakya, Turkey. (Dec. 2013).

<sup>40</sup> *Id.*

- In February 2012, in Karm-Al Zeitoun, witnesses reported that armed forces forced women to walk naked in the streets.<sup>41</sup>
- In November 2013, the regime filled barrels and large containers with explosives and threw them from airplanes into Al-Bab City, killing between 150 and 180 civilians, including women and children.<sup>42</sup>
- In April 2013, the UN Special Representative of the Secretary-General on Sexual Violence in Conflict reported that men in military uniforms abducted, sexually assaulted, and tortured a 14 year old girl, whose mother was allegedly linked to the opposition.<sup>43</sup> They beat her with electrical wiring, gave her injections of an unknown substance, extinguished cigarettes on her body, denied her food and water for extended amounts of time, and raped her.<sup>44</sup>
- In late February/early March 2012, about 40 men wearing military uniforms entered the house of a family living in Bab Amr.<sup>45</sup> The father was forced to watch the men gang rape his wife and two oldest daughters, aged 14 and 11, before then being raped himself while his family watched.<sup>46</sup>
- In June 2012, heavily armed Shabbihas broke into a woman's house, where they forced her at gunpoint to undress in front of her three children because she was accused of providing food and support to opposition groups.<sup>47</sup> She was then dragged into the street and raped by one of the men. Her marriage quickly fell apart after the rape.<sup>48</sup>
- In April 2012, government forces abducted a woman in Homs, whose husband was a member of an armed opposition group.<sup>49</sup> She was reportedly abducted with 5 other women and one teenage girl.<sup>50</sup> They were all blindfolded, placed in a van, and taken to a room and raped while other men shouted at them.<sup>51</sup> She also saw 20 other naked women with bodily injuries.<sup>52</sup> Government soldiers have been known to strip, blindfold, and gang rape women in detention, while also forcing women to watch them torturing and sexually assaulting others.<sup>53</sup>

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<sup>41</sup> U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶¶ 98-99, U.N. Doc. A/HRC/21/50 (2012).

<sup>42</sup> IWHR Clinic at CUNY Law School, interview with Syrian service provider, Gazientep, Turkey. (Dec. 2013).

<sup>43</sup> UN Security Council, Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Hawa Bangura, 6, U.N. Doc. S/PV.6949 (2013).

<sup>44</sup> *Id.*

<sup>45</sup> U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, Annex IX, ¶ 7, U.N. Doc. A/HRC/21/50 (2012).

<sup>46</sup> *Id.*

<sup>47</sup> *Id.* ¶ 14.

<sup>48</sup> *Id.*

<sup>49</sup> U.N. General Assembly, 21<sup>st</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, Annex IX, ¶ 23, U.N. Doc. A/HRC/21/50 (2012).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> U.N. Security Council, Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Hawa Bangura, 6, U.N. Doc. S/PV.6949 (2013).

UN Experts have also documented sexual violence and threats of sexual violence against children perceived to be pro-opposition, primarily by members of the Syrian intelligence services and the Syrian Armed Forces. The recent Secretary General's report on children and the Syrian armed conflict found that "sexual violence was reportedly used to "humiliate, harm, force confessions or pressure a relative to surrender."<sup>54</sup> The report also found that in detention, sexual violence included "electric shocks to, or burning of, the genitals, and the rape of boys, and in a few instances, girls."<sup>55</sup>

Conditions generated by the armed conflict also exacerbate the health impacts of gender-based violence. Continued attacks on hospitals and health facilities by both government and non-government forces compound the consequences of all forms of violence, including rape and sexual assault, by limiting access to healthcare for entire vulnerable communities.<sup>56</sup> Some women and girls have been forced to carry pregnancies resulting from rape to term, either because it was too dangerous to leave the house to seek abortion or contraceptive services or because they were denied such services.<sup>57</sup> (See page 26 for information on women's access to health care services).

## **B. RESPONSE BY THE GOVERNMENT OF SYRIA**

In response to the issue of gender-based violence, the Syrian government's second periodic report acknowledges the problem of gender-based violence in Syria, citing studies conducted between 2008 and 2009 showing that women are exposed to physical violence to varying degrees.<sup>58</sup> (It should be noted that this data does not include the situation of women in all areas covered by the Convention, and is not disaggregated by other factors such as age and rural and urban areas as called for by the Committee in its 2007 review of Syria.). According to a 2010 study, as many as 1 in 4 Syrian women are or have been subjected to physical violence by their husbands.<sup>59</sup> However, the government denies its own role in gender-based violence in the context of the conflict, and blames the lack of accountability specifically for domestic violence

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<sup>54</sup> U.N. Security Council, *Report of the Secretary-General on Children and Armed Conflict in the Syrian Arab Republic*, ¶ 35, U.N. Doc. S/2014/31 (2014).

<sup>55</sup> U.N. General Assembly, 24<sup>th</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 95, U.N. Doc. A/HRC/24/46 (2013); U.N. Security Council, *Report of the Secretary-General on Children and Armed Conflict in the Syrian Arab Republic*, ¶ 35, U.N. Doc. S/2014/31 (2014); "Allegations of sexual violence by armed opposition groups were also received, but the United Nations was unable to further investigate them at the time of writing owing to lack of access." *Id.* at ¶ 37.

<sup>56</sup> Access to reproductive health services, which was severely lacking prior to the conflict, is currently non-existent in many areas of Syria. U.N. General Assembly, 22<sup>nd</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, Annex III, ¶ 10, U.N. Doc. A/HRC/22/59 (2013); *Situation of human rights in the Syrian Arab Republic: Implementation of Human Rights Council resolution 19/22*, ¶ 9, U.N. Doc. A/HRC/21/32 (2013).

<sup>57</sup> Syria has some of the most restrictive laws in the world that permit abortion only to save a woman's life. Center for Reproductive Rights, *The World's Abortion Laws Map 2013 Update*, 2 (2013), available at [http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap\\_Factsheet\\_2013.pdf](http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap_Factsheet_2013.pdf).

<sup>58</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 92-94, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>59</sup> Rhonda Roumani, *Study Reveals Domestic Abuse is Widespread in Syria*, *The Christian Science Monitor* (April 25, 2006), available at <http://www.csmonitor.com/2006/0425/p04s01-wome.html>.



on conditions generated by the conflict.<sup>60</sup> (See page 35 for information on the lack of state measures to address domestic violence in Syria).

The Syrian government's reply to the Committee's List of Issues also claims that women who have been subjected to violence by the government or government-affiliates may bring perpetrators to justice in accordance with the law,<sup>61</sup> without acknowledging the near impossibility of enforcing the law in conflict zones. An absence of sufficient programs and laws to protect women and girls from physical and sexual violence prior to the conflict, now reverberates in the overwhelming scope and impacts of gender-based violence occurring during the war.

The Syrian government acknowledges heinous atrocities have occurred in Syria since the beginning of the conflict. However, the government vehemently denies any responsibility for these acts and has done little to prevent this violence, instead blaming it on opposition and armed terrorist groups.<sup>62</sup> The government claims that, in areas under regime control, it is endeavoring to combat discrimination and protect women from violence, while also providing shelter to women who are victims of violence in special care centers.<sup>63</sup>

However, multiple reports from the Commission, statements made on record by UN officials,<sup>64</sup> as well as interviews with Syrian refugees, point to the government's role in perpetuating gender-based violence. Additionally, the government recognizes the heavy toll the conflict has on access to healthcare, including reproductive healthcare, but blames the lack of services on economic sanctions and armed terrorist attacks, without acknowledging its own role in the deliberate destruction of health facilities, as well as its other methods of limiting women's access to reproductive healthcare.<sup>65</sup> (See page 26 for information women's access to healthcare services).

The Syrian government's failure to take seriously the prevention and prosecution of gender-based violence pre-conflict should be a warning to the international community that it will not end with a peace agreement, unless women can work from a position of power to establish mechanisms to address it. Creating new and strengthening existing laws around

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<sup>60</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic (Replies of the Syrian Arab Republic)*, Section 10 on the National mechanism to monitor domestic violence, U.N. Doc CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>61</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic (Replies of the Syrian Arab Republic)*, Section 1 on Measures and mechanisms to combat violence against women, U.N. Doc CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>62</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic (Replies of the Syrian Arab Republic)*, Section 1 on measures and mechanisms to combat violence against women, & Section 11, The violence of which Syrian women are most frequently and most dangerously at risk is the violence meted out by armed terrorist groups, U.N. Doc CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>63</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic (Replies of the Syrian Arab Republic)*, Section 1 on Measures and mechanisms to combat violence against women, & Section 10 on the National mechanism to monitor domestic violence, U.N. Doc CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>64</sup> For example, U.N. Security Council, Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Hawa Bangura, 6, U.N. Doc. S/PV.6949 (2013).

<sup>65</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic*, Section 17-18 on Education and health, U.N. Doc CEDAW/C/SYR/Q/2/Add.1 (2014).

violence can be a key step towards gender equality in post-conflict Syria, including by providing infrastructure that allows women to see that legal protections apply to them as full members of society, and thus encourages them to report violence. Effective laws should not only criminalize such violence in conflict, but also serve as deterrence for future violent crimes. For example, a competent law prohibiting rape should provide prohibition, prosecution, punishment, and redress for rape both in the context of conflict and peace, once the conflict is over. (See page 36 for information on current rape laws, and pages 15-17, on women's participation in political life).

### C. RECOMMENDATIONS

1. In accordance with the CEDAW Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/ ¶ 20) the Government of Syria must give high priority to addressing all forms of violence against women and girls, and recognize that such violence is gender discrimination in violation of the Convention.<sup>66</sup> The Syrian government must enact legislation prohibiting violence against women, prosecute and punish perpetrators of violence, and ensure that victims have immediate remedies. (See recommendations under Article 2, page 43, for specific legislative reform recommendations).
2. In accordance with the CEDAW Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/ ¶ 28) the Government of Syria should address "stereotypical attitudes about the roles and responsibilities of women and men, including the hidden cultural patterns and norms that perpetuate direct and indirect discrimination against women and girls in all areas of their lives. It calls upon the State party to implement and monitor comprehensive measures to bring about change in the widely accepted stereotypical roles of men and women, including by promoting equal sharing of domestic and family responsibilities between women and men. Such measures should include awareness-raising and educational campaigns addressing women and men, girls and boys, of all religious affiliations with a view to eliminating stereotypes associated with traditional gender roles in the family and in society."<sup>67</sup>
3. In accordance with the CEDAW Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/ ¶ 38) the Government of Syria should "include in its next report statistical data and analysis on the situation of women, disaggregated by sex, age and by rural and urban areas, indicating the impact of measures taken and the results achieved in the practical realization of women's substantive equality."<sup>68</sup>
4. The Government of Syria must acknowledge its role in perpetuating gender-based violence and other atrocities in the conflict, immediately end patterns and practices of such violence, and provide redress to victims of violence, including immediate access to legal remedies to hold perpetrators accountable and access to appropriate, gender-sensitive medical care;

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<sup>66</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 20, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>67</sup> *Id.* ¶ 28.

<sup>68</sup> *Id.* ¶ 38.

5. The Government of Syria must take measures to prevent gender-based violence and impunity for such violations, monitor and document instances of gender-based violence, and investigate and punish violence committed by State and non-State actors, ensuring women and girls' access to justice;
6. In accordance with the Syrian Women's Initiative for Peace and Democracy, the Government of Syria must immediately lift the siege and allow for the timely provision of humanitarian and medical aid to all affected regions, under the supervision of an independent commission with international oversight.<sup>69</sup>
7. The Government of Syria should implement the Committee and Against Torture's recommendations from its review of the Syrian Arab Republic in 2012 (CAT/C/SYR/CO/1/Add.2 ¶ 22 (c) & (d)) calling on the government to:
  - (c) Establish, with the assistance of the international community, an independent commission of inquiry into the serious allegations of human rights violations committed by security forces and armed groups acting under the control or with the consent or acquiescence of State authorities; suspend members of the security forces against whom there are credible allegations of human rights abuse pending completion of investigations; and ensure that individuals or groups who cooperate with the commission of inquiry are not subjected to any reprisals, ill-treatment or intimidation as a consequence of this cooperation;
  - (d) Ensure prompt, impartial and thorough investigations into allegations of summary execution, enforced disappearance, arbitrary arrest and detention, torture or cruel, inhuman or degrading treatment or punishment, by State agents or non-State actors, prosecute those responsible before independent and impartial courts that meet international fair trial standards, and punish them according to the severity of their crimes. Prosecution of members of security forces involved in serious human rights violations and alleged crimes against humanity should comprise investigations up to the highest levels in the chain of command.
8. The Government of Syria must take immediate steps to implement the UN Independent International Commission of Inquiry on the Syrian Arab Republic recommendations (A/HRC/25/65 ¶ 157) that all combatant parties:
  - (a) Ensure the protection of civilians, guaranteeing their safety and security effectively;
  - (b) Respect civilians' right of access to basic necessities, food and medical care, and allow unhindered passage of such goods;
  - (d) Not submit anyone, civilian or combatant, to torture or other cruel, inhuman or degrading treatment, including sexual violence;

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<sup>69</sup> The Syrian Women's Initiative for Peace and Democracy (SWIPD) is a diverse group representing women and women's organizations and networks from throughout Syria.

(f) Treat all persons in detention humanely and provide an impartial, neutral and independent organization with regular access to persons in detention;

(g) Protect aid workers and facilitate the rapid and unimpeded passage of relief supplies;

(i) Ensure safe passage and protection for medical personnel, hospitals and ambulances;

(j) Commit to ensuring the preservation of the material evidence of violations and international crimes to protect the right to truth of the Syrian people.

**ARTICLE 4: TEMPORARY SPECIAL MEASURES TO ACCELERATE WOMEN’S EQUALITY IN CONNECTION WITH ARTICLE 7: THE OBLIGATION TO ENSURE ADEQUATE PARTICIPATION OF WOMEN IN POLITICAL AND PUBLIC LIFE AND ARTICLE 8: THE OBLIGATION TO ENSURE ADEQUATE PARTICIPATION OF WOMEN IN INTERNATIONAL FORUMS**

*We do not have a sectarian agenda. We do not have a regional agenda. We do not have and international agenda. The only agenda we have is to stop the killing, stop the dividing of the country, protect our homeland and end this horrible war.\**

\* IWHR Clinic at CUNY Law School, interview with Syrian Women activist discussing the movement by Women-led Syrian civil society calling for peace, Beirut, Lebanon (2014).

Together, Articles 4, 7(a)(b), and 8 obligate States to ensure women’s equal representation and active decision-making in the political and public processes of the country, at both domestic and international levels. Under Article 4, States Parties are encouraged to adopt temporary special measures to accelerate de facto equality between men and women.<sup>70</sup> Article 7 requires States Parties to ensure that women, on equal terms with men, be allowed to vote in all elections, be eligible for election to publicly elected positions, be allowed to participate in formulating policy, and be permitted to “perform all public functions at all levels of Government,”<sup>71</sup> while Article 8 ensures women the same rights at the international level.<sup>72</sup>

Women often take leadership roles during conflict and crises. However, women’s voices are also often silenced and largely remain unheard in post-conflict and transitional recovery periods.<sup>73</sup> According to CEDAW’s General Recommendation No. 30, women’s equal and meaningful participation as civil society members and as leaders in government positions is critical in the immediate aftermath of a conflict, because it is a prerequisite “for creating a society with lasting democracy, peace and gender equality.”<sup>74</sup> This includes, but is not limited to, an active role for women in legislative, judicial, executive, and administrative areas.<sup>75</sup> Under CEDAW’s General Recommendation No. 23, States Parties should enact special temporary measures as provided by Article 4, such as setting numerical goals and quotas for women in leadership positions; targeting, training, and financially assisting potential female candidates for public office and the judiciary; and developing campaigns to increase women’s participation in electoral procedures, to change entrenched attitudes towards woman and give full effect to Articles 7 and 8.<sup>76</sup>

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<sup>70</sup> CEDAW, art. 4.

<sup>71</sup> CEDAW, art 7 (a)(b).

<sup>72</sup> CEDAW, art. 8.

<sup>73</sup> CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, ¶ 42; CEDAW Comm., *General Recommendation No. 23: Political and public life*, ¶ 9.

<sup>74</sup> CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, ¶ 42.

<sup>75</sup> *Id.* ¶ 46.

<sup>76</sup> *Id.* ¶ 15.

## A. WOMEN'S REAL AND EFFECTIVE PARTICIPATION IN POLITICAL AND PEACE PROCESSES IS CRITICAL FOR ACHIEVING PEACE AND STABILITY IN SYRIA

*If we do not include Syrian civil society in the peace negotiations and discussions on the future of Syria, then the only majority will be the authority and all others will face oppression.\**

\*IWHR Clinic at CUNY Law School, interview with Syrian women's rights activist, New York, NY (Spring 2014).

Sustainable peace requires inclusivity; involving civil society in peace negotiations greatly reduces the risk of peace agreements failing.<sup>77</sup> UN Security Council Resolution 1325<sup>78</sup> obligates states to include women's active and meaningful participation in peace-building and in post-conflict reconstruction, to ensure that initiatives to address human rights violations, including gender-based violence (GBV), are fully incorporated into post-conflict states' governing structures. This is been echoed by numerous findings and studies. In a UN Assessment on women, peace, and security found the participation of women in peace processes is "crucial in the establishment of sustainable peace.... Women cannot voice their concerns if they are not consulted by fact-finding missions or if they are not involved in peace negotiations."<sup>79</sup> Women raise critical issues in peace processes that affect all of civil society, and they contribute practical solutions, from law reform and implementation, to rebuilding a more just and sustainable society.<sup>80</sup> Unfortunately, women are often not included in either formal or informal peace processes. They are underrepresented, whether as civil society participants or as representatives of warring factions, or even as the mediators of peace negotiations.<sup>81</sup>

The inclusion of a women's rights perspective in peace negotiations lays a critical foundation for addressing gender-based violence, promoting women's human rights, and countering gender-based discrimination. When peace agreements lack provisions or commitments towards gender equality, any subsequent measures proposed at the implementation stage can be rejected as outside the scope of the peace mandate.<sup>82</sup> In this way, agreements that lack language promoting gender equality may become the very obstacles to overcoming nondiscrimination after peace is declared.

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<sup>77</sup> WILPF, ICAN, HUMAN RIGHTS WATCH, KVINNA TIL KVINNA, OXFAM, AND DEMOCRASHE, ENSURING THE EFFECTIVE PARTICIPATION AND RIGHTS OF WOMEN IN THE SYRIAN PEACE AND MEDIATION PROCESS, 1 (2013).

<sup>78</sup> In 2013, the UN Security Council reaffirmed the importance of including women in peace negotiations by adopting U.N. Security Council Resolution 2122, that follows 1325, 1820, 1888, 1889, 1960, 2106, 2122. U.N. Security Council, Resolution 2122, U.N. Doc S/RES/2122 (2013); See also, WILPF, ICAN, HUMAN RIGHTS WATCH, KVINNA TIL KVINNA, OXFAM, AND DEMOCRASHE, ENSURING THE EFFECTIVE PARTICIPATION AND RIGHTS OF WOMEN IN THE SYRIAN PEACE AND MEDIATION PROCESS 2 (2013).

<sup>79</sup> U.N. SECRETARY-GENERAL, WOMEN, PEACE AND SECURITY, ¶ 33 (2002).

<sup>80</sup> MADRE, WILPF, IWHR, SEEKING ACCOUNTABILITY AND EFFECTIVE RESPONSE FOR GENDER-BASED VIOLENCE AGAINST SYRIAN WOMEN: WOMEN'S INCLUSION IN PEACE PROCESSES, 3 (2013).

<sup>81</sup> U.N. Women's assessment of 21 major peace processes demonstrated that women represent a strikingly low number of participants: Only 2.4% of signatories to peace agreements were women; in 10 identified cases, an average of less than six percent of negotiation delegations included women; and while some women have joined mediation teams, none have been appointed Chief or Lead mediators. UN WOMEN, WOMEN'S PARTICIPATION IN PEACE NEGOTIATIONS: CONNECTIONS BETWEEN PRESENCE AND INFLUENCE 2 (2009).

<sup>82</sup> UN SECRETARY-GENERAL, WOMEN, PEACE AND SECURITY, ¶ 201 (2002).

In the aftermath of the Bosnia-Herzegovina conflict, for example, despite the international community's knowledge of the use of sexual violence in the conflict, and despite the work of women's organizations to address violence as a weapon of war, no women or civil society members were permitted to participate in the Dayton negotiations that formally ended the conflict.<sup>83</sup> The Committee iterated this point in its 2006 Concluding Observations to the Government of Bosnia-Herzegovina, stating its concern that "in the post-war period women's enjoyment of their human rights has been negatively affected by several factors: the lack of a gender analysis of the consequences of the armed conflict and the lack of women's participation in and gender analyses of the peace, reconstruction and transformation processes."<sup>84</sup>

## **B. SYRIAN WOMEN'S VOICES ARE BEING EXCLUDED FROM PEACE NEGOTIATIONS**

Women's voices are currently missing from Syrian peace negotiations. Unless mechanisms to prevent and address gender-based violence are developed now, in the framework of the peace process, women's human rights will likely be subject to the country's pre-conflict legal framework. Despite the many reasons to include women—and the dangers of excluding them—those driving the Syrian peace negotiations have not permitted a real space for women to participate. January's peace talks in Geneva, for example, excluded Syrian women who had repeatedly tried for months to be heard by the international community.<sup>85</sup> Syrian women have called "for the effective participation of women on all negotiating teams and committees in a proportion of at least 50 percent with no less than 30 percent."<sup>86</sup> Despite their exclusion, Syrian women continue to organize across sectarian lines to address immediate humanitarian concerns while simultaneously organizing for representation at the negotiating tables, demonstrating Syrian unity and calling for peace.<sup>87</sup> They have developed three primary demands of the armed actors and the international community: an immediate ceasefire, unfettered humanitarian aid to Syria's besieged populations and refugee communities, and immediate release of prisoners by all sides of the conflict.<sup>88</sup>

As obligated by international law and for the success and sustainability, formal peace negotiations must include the full participation of women-led Syrian civil society initiatives at both the national and international levels and with equal rights and responsibilities to participate,

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<sup>83</sup> U.N. SECRETARY-GENERAL, WOMEN, PEACE AND SECURITY, ¶ 198 (2002).

<sup>84</sup> CEDAW Comm., Concluding Observations: Bosnia, ¶ 11, U.N. Doc. CEDAW/C/BIH/CO/3 (2006).

<sup>85</sup> OXFAM, press release, *Progress at the Geneva II Peace Talks, But Syrian Civil Society and Women Continue to be Denied Access*, 24 (Jan., 2014), available at <http://www.oxfam.org/en/pressroom/reactions/progress-geneva-ii-peace-talks-syrian-civil-society-and-women-continue-be-denied>.

<sup>86</sup> U.N. Women, press release, *Conference of Syrian women, convened by UN Women and the Netherlands, ends with strong recommendations for upcoming peace talks*, (Jan. 14, 2013), <http://www.unwomen.org/en/news/stories/2014/1/press-release-on-syrian-women-meeting>.

<sup>87</sup> Hind Kabawat, *Meet the Women Rebuilding Syria in the Midst of War*, Huffington Post (Feb. 14, 2014), available at, [http://www.huffingtonpost.com/hind-kabawat/meet-the-women-rebuilding\\_b\\_4784424.html](http://www.huffingtonpost.com/hind-kabawat/meet-the-women-rebuilding_b_4784424.html); Dulcie Leimbach, *Syrian Women's Groups Push for Equal Role at Geneva II Talks* (Dec. 15, 2013), available at, <http://passblue.com/2013/12/05/syrian-womens-groups-push-for-equal-role-at-geneva-ii-talks/>; Madeleine Rees, *Syrian Women Demand to Take Part in Peace Talks in Geneva* (Jan. 12, 2014) available at, <http://www.opendemocracy.net/5050/madeleine-rees/syrian-women-demand-to-take-part-in-peace-talks-in-geneva>.

<sup>88</sup> Syrian Women's Initiative for Peace and Democracy (SWIPD), Outcome Document, (Jan. 13-14, 2014).

negotiate, and determine the agreements.<sup>89</sup>

### C. SYRIAN WOMEN’S VOICES ARE BEING EXCLUDED FROM DOMESTIC POLITICAL PROCESSES

In its 2007 review of Syria, the CEDAW Committee expressed concern about the low levels of women’s participation in public and political life and in important decision-making positions,<sup>90</sup> and encouraged the Syrian government to “accelerate the increase in the representation of women, in elected and appointed bodies in all areas...including in municipal, town and village councils,” by using quotas and awareness raising campaigns.<sup>91</sup> The Committee also expressed concern over entrenched gender role stereotypes as a root cause of the disadvantaged position of Syrian women.<sup>92</sup>

The Syrian government has failed to adequately advance and develop the role of women in political, economic, cultural, and social life. Women are limited in government roles and men make up the majority of the political scene, especially the executive branch, occupying the majority of decision-making positions.<sup>93</sup> In the 2007 national elections, of the 9,770 candidates running for Parliament, only 1,004 were women.<sup>94</sup> Women have even less success in local elections, making up 3.2% of elected local council members.<sup>95</sup> Opposition to women’s rights, including increased visibility and participation in political life, stems from both religious fundamentalism as well as conservative customs “that relegate women to a secondary position in society and continue to hold greater sway than formal law for many Syrians.”<sup>96</sup> Women’s rights activists are also limited in their ability to operate freely and openly critique discriminatory laws and policies, partly due to social norms discouraging female leadership.<sup>97</sup>

For this reason the Government of Syria should enact temporary special measures to increase the participation of women in government leadership roles. The Committee encouraged the adoption of temporary special measures to accelerate women’s political participation in the public and political sphere in other countries of the region. For example, in its 2011 review of Kuwait, the CEDAW Committee urged the State party to adopt temporary special measures to increase women’s representation in public office and at all levels of government,<sup>98</sup> to encourage and facilitate their representation in Parliament and ministerial positions, and as prosecutors, judges, and diplomats.<sup>99</sup>

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<sup>89</sup> WILPF, ICAN, HUMAN RIGHTS WATCH, KVINNA TIL KVINNA, OXFAM, AND DEMOCRASHE, ENSURING THE EFFECTIVE PARTICIPATION AND RIGHTS OF WOMEN IN THE SYRIAN PEACE AND MEDIATION PROCESS 2 (2013).

<sup>90</sup> CEDAW Committee, *Concluding Observations: Syrian Arab Republic*, ¶ 25, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>91</sup> *Id.* ¶ 26.

<sup>92</sup> *Id.* ¶ 27.

<sup>93</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 15, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>94</sup> Freedom House, *Women’s Rights in the Middle East and North Africa 2010: Syria*, 17 (2010).

<sup>95</sup> *Id.* 18.

<sup>96</sup> *Id.* 3.

<sup>97</sup> Freedom House, *Women’s Rights in the Middle East and North Africa 2010: Syria*, 18 (2010) (Interview with Syrian women’s rights advocate (anonymous), June 11, 2009).

<sup>98</sup> CEDAW Committee, *Concluding Observations Kuwait*, ¶ 27, U.N. Doc. CEDAW/C/KWT/CO/3-4 (2011).

<sup>99</sup> *Id.* ¶ 35.



#### D. RESPONSE BY THE GOVERNMENT OF SYRIA

The Government of Syria, in its second periodic report to the CEDAW Committee, claims that women actively represent Syria in international meetings and agreements,<sup>100</sup> yet fails to address the lack of women-led civil society participation in current peace processes, despite their repeated requests for inclusion.

In its replies to the Committee's List of Issues, the government indicates recognition of the importance of including women in the peace process. It describes a November 2013 meeting its Ministry of Social Affairs organized on the theme "Syrian Women as the Key to Peace," and annexes a document of suggestions formulated at the meeting.<sup>101</sup> While the recognition of the importance of adhering to UN Security Council Resolution 1325, the government should take additional steps towards the meaningful inclusion of women in the peace process, which the government has thus far abstained from. Government officials refused to respond to requests to meet with women's advocates from the Syrian Women's Initiative for Peace and Democracy (SWIPD),<sup>102</sup> who were present in Geneva during the January, 2014 peace negotiations round. The government indicates that the months following the November meeting, it had not actually adopted, much less implemented, the recommendations produced there and contain no benchmarks or timeline for implementation.<sup>103</sup> The government has made little effort since January 2014 no effort to ensure meaningful inclusion of any women from civil society. If the Syrian government intends to meaningfully commit to including women in the peace process, it can begin by working with the women who are organizing together across sectarian lines for peace and human rights.

The Syrian government also claims that the presence of women in high-level government positions provides women a way to participate in peace and future reconstruction processes.<sup>104</sup> However, to date, the lack of meaningful participation in negotiations by women representing a women's rights agenda—something no other party to the negotiations has done or will do—indicates that the mere presence of women in high office does not in fact ensure a route to participation of women from civil society in peace negotiations.

Although the Syrian government indicates advances in women's governmental representation since 2007, its report ultimately underscores the low percentage of women in government.<sup>105</sup> According to the government's report, women hold various government positions and 30 women have been elected to the Syrian parliament, constituting 12% of the entire

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<sup>100</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 36-50, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>101</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic, (Replies of the Syrian Arab Republic)*, Section 2, Measures taken or envisaged to incorporate a gender perspective into efforts aimed at achieving peace and reconstruction & Annex 1 on Syrian women peace-keeping workshop, U.N. Doc. CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>102</sup> The Syrian Women's Initiative for Peace and Democracy (SWIPD) is a diverse group representing women and women's organizations and networks from throughout Syria.

<sup>103</sup> WILPF, *Syrian Women, the Missing Civil Link to Geneva II Peace Talks* (Jan. 23, 2014), available at, <http://www.wilpfinternational.org/syrian-women-the-missing-civil-link-to-geneva-ii-peace-talks/>.

<sup>104</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic, (Replies of the Syrian Arab Republic)*, Section 14 on quotas for women under the Parties Law and the Electoral Law, U.N. Doc. CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>105</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 36-50, U.N. Doc. CEDAW/C/SYR/2 (2012).

parliament.<sup>106</sup> While this statistic shows slight improvement of women's involvement in political life, the proportion of women to men in government is still quite low. The report points to a 2% increase of women in the judiciary between 2005 and 2011,<sup>107</sup> yet still only 15-18% of judges are women.<sup>108</sup> The report recognizes the dearth of women's participation as a problem,<sup>109</sup> claiming that the lack of female representation is due to cultural norms,<sup>110</sup> disparity between individuals' qualifications, as well as political and economic factors.<sup>111</sup> However, the State does not propose a plan of action to counter these stereotypes and to increase women's political participation and representation, such as by acting on the Committee's 2007 temporary special measures recommendation that the government enact quotas.<sup>112</sup>

## E. RECOMMENDATIONS

### **The Government of Syria should implement all of the recommendations prescribed by the Syrian Women's Initiative for Peace and Democracy<sup>113</sup> (See Annex I) including:**

1. The Government of Syria should uphold its obligation under international law to implement Security Council Resolutions 1325, 1820, 1888, 1889, 1960, 2106, 2122, regarding the status of women in armed conflict. Syrian women's organizations also call on the international community and on the negotiating parties to guarantee the effective participation of women on all negotiating teams and committees in a proportion of no less than 30% for the duration of the negotiation process.
2. Ensure the meaningful participation of women in the entire political process, including in the formation of the transitional governing body, the constitutional drafting committee, the drafting of the election law, mechanisms of transitional justice, the local administration and local committees for civil peace.
3. Implement an immediate ceasefire as a first step towards the permanent cessation of military operations. This can be achieved by relying upon mutually reinforcing negotiation tracks at local, national and international levels, with the robust participation of Syrian civil society.

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<sup>106</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 7 & 18, U.N. Doc. CEDAW/C/SYR/2 (2012); The number of candidates for the ninth term (2007-2011) was 8801 male candidates and 982 female candidates, an increase from the eighth term where there were 852 female candidates. There are 12 committees in the people's assembly, and women's participation in some committees is only one-third or less. *Id.* at 36.

<sup>107</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 17, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>108</sup> Syria had a total of 1508 judges in 2011 including 240 female judges, accounting for 15% of the total number of judges. Female judges of both summary court and conciliation court are 87 judges, which is 18% of the total number. There are 28 general prosecutors, accounting for 17% of all prosecutors. Syrian Arab Republic, *Second Periodic Report CEDAW*, 37, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>109</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 18, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>110</sup> *Id.* (Obstacles that hinder women reaching a high representative level are mainly related to the prevailing masculine culture and the prevailing stereotypes.).

<sup>111</sup> *Id.*

<sup>112</sup> *Id.* 17-18.

<sup>113</sup> Syrian Women's Initiative for Peace and Democracy (SWIPD), Outcome Document, (Jan. 13-14, 2014).

4. Adopt the Geneva 1 Communique as the baseline for a political solution and as the starting point for the negotiation process that seeks to build a comprehensive and lasting peace, and which lays the foundation for a state based on citizenship and the rule of law.
5. Appoint a Syrian gender advisor to the mediation team and establish communication channels to enable joint action and coordination with women's and civil society organizations.
6. Build the capacity of Syrian women activists and civil society organizations in the areas of negotiation and peacebuilding skills.
7. Reject any political solution based on ethnicity, confessionalism, religion or military balance on the ground, to protect the territorial integrity of Syria and the unity of its people.

**The Government of Syria should also implement the following Concluding Observations made by the CEDAW Committee during its 2007 review:**

1. The Government of Syria should implement the CEDAW Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 26) urging the State party “to undertake awareness-raising campaigns about the importance of women’s participation in decision-making for society as a whole.”<sup>114</sup>
2. The Government of Syria should implement the CEDAW Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 26) encouraging the government to take temporary special measures, including the use of quotas, to increase the representation of women in “elected and appointed bodies in all areas of public life, including in municipal, town, and village councils” and to accelerate the increase in representation through the establishment of “concrete goals and timetables.”<sup>115</sup>

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<sup>114</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 26, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>115</sup> *Id.* ¶ 26.

## ARTICLE 9: THE OBLIGATION TO ENSURE WOMEN EQUAL RIGHTS WITH MEN WITH RESPECT TO WOMEN AND THEIR CHILDREN'S NATIONALITY

*I married a Turkish man when I first arrived to Antakya. Since then neither the Syrian government nor the Turkish government is willing to grant my son legal status. Syria won't grant my son citizenship because I married a non-Syrian man, and Turkey bars my son from any legal status because we are refugees. Now I feel like I am in jail because I am even afraid to take my son out of this town because he does not have a passport or any legal status.\**

\* IWHR Clinic at CUNY Law School, interview with Syrian women's rights activist, Antakya, Turkey. (Dec. 2013).

Article 9 of CEDAW requires States Parties to grant women equal rights with men with respect to changing or retaining their nationality and the nationality of their children.<sup>116</sup> The CEDAW Committee explains in General Recommendation No. 21 that women have the right to retain their nationality and to not have it arbitrarily stripped from them because of marriage, dissolution of marriage, or because of their marriage to a spouse of a foreign nationality.<sup>117</sup> The Committee also notes in General Recommendation No. 30 that nationality laws that deny women the ability to pass on nationality to their children, constitute discrimination under Article 9 of CEDAW.<sup>118</sup>

### A. THE GOVERNMENT OF SYRIA HAS FAILED TO ELIMINATE DISCRIMINATORY LAWS THAT DENY SYRIAN WOMEN THE ABILITY TO PASS ON THEIR NATIONALITY TO THEIR CHILDREN

Article 3 of the Syrian Nationality Act still deems persons to be Syrian Arabs anyone born in or outside the country to a Syrian Arab father, or anyone born inside the country whose paternity may not have been legally established.<sup>119</sup> Article 3 (a) of the Decree states that "anyone born inside or outside the country to a Syrian father" shall be considered Syrian, thereby explicitly discriminating against women by denying them the ability to pass their nationality to their children.<sup>120</sup> In an attempt to justify such discriminatory law, the government explains in the Decree that children of Syrian woman and a non-Syrian father cannot be granted citizenship because "Syrian Arab nationals marriage to a foreigner is likely to weaken the national inclination in children, [since] foreign mothers do not feel that tendency. [Women] may instill in their children's minds the love for their own countries and ethnicity, instead of teaching them to love their nation and homeland."<sup>121</sup>

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<sup>116</sup> CEDAW, art 9.

<sup>117</sup> CEDAW Comm., *General Recommendation No. 21: equality in marriage and family relations*, ¶ 6.

<sup>118</sup> CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, ¶ 59.

<sup>119</sup> Legislative Decree 276 - Nationality Law [Syrian Arab Republic], *Legislative Decree 276, 24*, at 20 (1969), available at, <http://www.refworld.org/docid/4d81e7b12.html>.

<sup>120</sup> *Id.*

<sup>121</sup> *Id.* The Committee previously expressed similar concerns in its 2008 Concluding Observations to Saudi Arabia. The Committee noted that certain provisions of the Saudi Arabian Nationality Code contradict Article 9 of the Convention and discriminates against Saudi Arabian women married to non-Saudi nationals. The Committee's

The Decree has devastating impacts on the civil and economic rights of Syrian women and their children, especially refugees. The Syrian Women's League estimates that more than 100,000 of these women are married to foreign husbands, mostly from neighboring Arab countries, including Jordan, Lebanon, Egypt and Iraq.<sup>122</sup> Often in cases involving divorce or dissolution of marriage, children of Syrian women and non-Syrian fathers are unable to acquire the citizenship of their fathers if the children were not registered with foreign consulates for the countries in which they were living before the marriage dissolved.<sup>123</sup> Additionally, children of marriages between Syrian women and foreign spouses cannot inherit property, lack access to free education, and have limited access to health care services, social security and other benefits available to nationals, leading to risk-taking behavior and a sense of instability and marginalization.<sup>124</sup> The children also have difficulty starting businesses, leasing or buying property, and obtaining employment.<sup>125</sup>

Tragically, since the beginning of the armed conflict in 2011, many of the millions of displaced women and children have inherited these adverse impacts of statelessness. The United Nations High Commissioner for Refugees reports (UNHCR) that the issue of statelessness is one of many difficulties affecting some Syrian refugees.<sup>126</sup> A 2013 study conducted by UNHCR found that in Lebanon, the majority of stateless Syrian refugees are children whose births have not been registered in Lebanon.<sup>127</sup> UNHCR also noted that between the end of 2012 through July 2013, over 1,400 children born in the Jordan Za'atari refugee camp had not received birth certificates.<sup>128</sup> Statelessness inhibits access to basic services such as education.<sup>129</sup> Stateless refugees' freedom of movement is also restricted because they are not registered with the authorities, and in many cases because of fear of arrest.<sup>130</sup>

The Syrian government has not taken any effective measure to address the adverse impacts of its discriminatory nationality laws on women belonging to minority populations in

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major concern was that children of such marriages do not have equal rights to nationality as children of Saudi men married to non-Saudi spouse. The Committee found that the laws violate Article 9 of the Convention and the state shall withdraw its reservations to the Article. CEDAW Comm., *Concluding Observations: Saudi Arabia*, ¶ 27-28, U.N. Doc. CEDAW/C/SAU/CO/2 (2008).

<sup>122</sup> Institute for War and Peace Reporting, *Campaign to change unfair citizenship law continues* (2008), available at, <http://www.refworld.org/publisher,IWPR,,,4959de2a1e,0.html>.

<sup>123</sup> U.N. High Commissioner for Refugees (UNHCR), Collective for Research and Training on Development – Action (CRTD-A), *Regional Dialogue on Gender Equality, Nationality and Statelessness: Overview and Key Findings*, 1 (2012), available at, <http://www.refworld.org/docid/4f267ec72.html>.

<sup>124</sup> Freedom House, *Women's Rights in the Middle East and North Africa: Syria*, 3 (2010).

<sup>125</sup> Id.

<sup>126</sup> U.N. High Commissioner for Refugees (UNHCR), *Lacking a Nationality, Some Refugees from Syria Face Acute Risks*, (Dec. 20, 2013), available at, <http://www.unhcr.org/52b45bbf6.html>.

<sup>127</sup> U.N. High Commissioner for Refugees (UNHCR), *The Future of Syria: Refugee Children in Crisis*, 5, (2013) (According to a UNHCR survey of birth registrations in Lebanon, about 600 refugee infants out of 781 assessed did not have official birth certificates).

<sup>128</sup> Id. 55.

<sup>129</sup> Brooke Anderson, *Syrian Refugees Newborns, Kurds Face Statelessness*, the Daily Star Lebanon, (Sep. 15, 2013), available at, <http://www.dailystar.com.lb/News/Lebanon-News/2013/Sep-25/232459-syrian-refugee-newborns-kurds-face-statelessness.ashx#axzz2tnO5XS8h>.

<sup>130</sup> Id.

Syria.<sup>131</sup> Syria has a history of passing laws that adversely impact the everyday affairs of minorities in Syria. When Legislative Decree No. 93 was passed in 1962, about 120,000 Syrian Kurds were stripped of their nationality when they could not prove they had been living in Syria since 1945.<sup>132</sup> They lost all rights to claim Syrian citizenship and were effectively left stateless. Syrian-born Kurds whose fathers were stripped of their Syrian nationality face tremendous difficulties in their everyday lives. They are not permitted to own land, housing or businesses; be employed at government agencies or state-owned enterprises, and cannot practice as doctors or engineers.<sup>133</sup> They are also ineligible for food subsidies or admission to public hospitals.<sup>134</sup> They may not legally marry Syrian citizens; and if they do, the marriages are not legally recognized for either the citizen or the “foreigner,” and both spouses are described as unmarried on their identity cards.<sup>135</sup> Additionally, Kurds with “foreigner” status are also not issued passports or other travel documents, and therefore may not legally leave or return to Syria.<sup>136</sup> This issue heavily impacts Syrian Kurdish refugees fleeing the conflict who have sought refuge in the Kurdistan region of Iraq. According to a 2013 UNHCR survey about 10 percent of these refugees are currently stateless.<sup>137</sup>

Over the last ten years, the women’s rights movement in Syria has worked to amend the Nationality Law.<sup>138</sup> In 2004, the Syrian Women’s League (SWL) presented a memorandum to Parliament that called on lawmakers to change the law and remove its discriminatory provision barring women from passing on their nationality to their children.<sup>139</sup> A year later, SWL presented a petition signed by thousands calling for the law to be amended.<sup>140</sup> The Presidential Palace forwarded the memorandum to the Ministry of Justice and formed a committee to discuss the amendment, resulting in the Ministry’s support for changing the law.<sup>141</sup> In 2006, SWL called on the head of Parliament and the Prime Minister to support the law amendment and to bring Syrian law into compliance under international law.<sup>142</sup> In 2008 however, Parliament voted against this right, arguing that such an amendment would be contrary to Sharia law, based on the interpretation that a child’s identity originates from the father’s name and nationality.<sup>143</sup>

The campaign did succeed in turning the right of Syrian women to grant citizenship

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<sup>131</sup> Freedom House, *Women’s Rights in the Middle East and North Africa 2010: Syria*, at 2 (2010). (Law No. 276 also particularly affects the assimilation of the Palestinian population of about half a million and the more recent influx of about 1.5 million Iraqi refugees.)

<sup>132</sup> Human Rights Watch, *Syria: The Silenced Kurds*, Vol. 8, No. 4(E) (1996), available at, <http://www.hrw.org/reports/1996/Syria.htm>

<sup>133</sup> Id.

<sup>134</sup> Id.

<sup>135</sup> Id.

<sup>136</sup> Id.

<sup>137</sup> U.N. High Commissioner for Refugees (UNHCR), *Lacking a Nationality, Some Refugees from Syria Face Acute Risks*, (Dec. 20, 2013), available at, <http://www.unhcr.org/52b45bbf6.html>.

<sup>138</sup> IWHR Clinic email correspondence with Syrian Women’s League leadership, Spring 2014 (on file with authors).

<sup>139</sup> Id.

<sup>140</sup> Id.

<sup>141</sup> Id.

<sup>142</sup> Id.

<sup>143</sup> However, many of the clerics have disputed these arguments. See Zahra Albarazi, *The Stateless Syrians: Report of the Middle East and North Africa Nationality and Statelessness Research Project* 9 (2013), available at, <http://www.refworld.org/pdfid/52a983124.pdf>

to their children into a public issue.<sup>144</sup> In 2011, joining in a larger coalition of civil society organizations, the Syrian Women's League presented a new bill to the new Parliament.<sup>145</sup> Again, a committee was formed to discuss amending the law. League members met with representatives from the Ministry of Justice and the Ministry of External and Internal Affairs to discuss the proposed amendment. The bill has not yet been presented to Parliament for vote.<sup>146</sup>

In its 2007 Concluding Observations to the Syrian Arab Republic, this Committee called on Syria to give high priority to law reform processes and to modify or repeal, "without delay" and "within a clear time frame," discriminatory legislation, including discriminatory provisions in the Nationality Act that deny Syrian women the autonomous right to pass on their nationality to their children.<sup>147</sup> However, the Syrian government has failed to take any initiatives to repeal or modify the 1969 Legislative Decree No. 276,<sup>148</sup> which continues to deny Syrian women who are married to non-Syrians the right to pass their citizenship to their children.

## **B. RESPONSE BY THE GOVERNMENT OF SYRIA**

Despite the Committee's concerns, the Syrian government has failed to take effective measures to repeal or modify Law No. 276. The Syrian government, in its Second Periodic State Report to the CEDAW Committee, reiterates its reservation to Article 9, citing the Article's incompatibility with the State's sovereignty.<sup>149</sup> The Syrian government offers a sovereignty rationale to justify its reservation: "considering Syria's geopolitical strategic location and its accessibility to many foreigners who seek refuge in it, it is reasonable for Syria to deny these children citizenship to preserve its sovereignty."<sup>150</sup>

However, the discriminatory intent of the Decree is explicit in the language contained in the text of the Decree.<sup>151</sup> This language is based on an erroneous presumption that children are likely to be loyal to their father's homeland but not to their mother's. Such discriminatory language perpetuates negative stereotypes and cultural norms, which portray women as inferior to men when it comes to child bearing and family roles and as incapable of influencing their children's association with their homeland. The Committee has explicitly and repeatedly condemned such forms of gender discrimination and discouraged prejudicial laws and practices that are "based on the idea of the inferiority or the superiority of either of the sexes or on [stereotypical] roles for men and women."<sup>152</sup>

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<sup>144</sup> IWHR Clinic email correspondence with Syrian Women's League leadership, Spring 2014 (on file with authors).

<sup>145</sup> Id.

<sup>146</sup> Id.

<sup>147</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 17-18, U.N. Doc. CEDAW/C/SYR/CO/1, (2007).

<sup>148</sup> Legislative Decree 276 - Nationality Law [Syrian Arab Republic], *Legislative Decree 276*, 24, 20 (1969), available at, <http://www.refworld.org/docid/4d81e7b12.html>.

<sup>149</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 50, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>150</sup> Id.

<sup>151</sup> Legislative Decree 276 - Nationality Law [Syrian Arab Republic], *Legislative Decree 276*, 24 (1969), at 20, available at, <http://www.refworld.org/docid/4d81e7b12.html>.

<sup>152</sup> CEDAW art 5 (a).

In its Replies to the Committee’s List of Issues, the Syrian government states that it has established a committee, pursuant to legislative decree No. 941 and executive order No. 9660, to “draft text containing an additional paragraph that would provide for the granting of Syrian nationality to the children of a Syrian woman married to a non-Syrian national...[which] has been submitted to the Prime Minister’s Office.”<sup>153</sup> However, the government has shown little commitment to the passage of this legislation.<sup>154</sup>

### C. RECOMMENDATIONS

1. The Government of Syria must take swift action to pass the pending legislation to amend the discriminatory provision in Law Decree No. 276 of the Nationality Act of 1969 to ensure that mothers are given an equal right with fathers in deciding on and managing all aspects of their children’s affairs and bring Syria into compliance with the CEDAW Committee’s 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 18).<sup>155</sup>
2. The State should comply with the Committee’s 2007 recommendation (CEDAW/C/SYR/CO/1 ¶ 18) calling on the government to “increase its efforts to sensitize the Parliament as well as public opinion regarding the importance of accelerating legal reform...and to increase support for law reform through partnerships and collaboration with religious and community leaders, lawyers and judges, unions, civil society organizations and women’s non-governmental organizations.”<sup>156</sup>
3. The Government of Syria should withdraw its reservation to Article 9 of CEDAW as prescribed by the Committee (CEDAW/C/SYR/CO/1 ¶ 18), in which the Committee notes the reservation is “incompatible with the object and purpose of the Convention.”<sup>157</sup>

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<sup>153</sup> CEDAW Comm., *Replies of the Syrian Arab Republic*, 17, U.N. Doc. CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>154</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 18, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>155</sup> *Id.*

<sup>156</sup> *Id.*

<sup>157</sup> *Id.* ¶ 12.



## ARTICLE 12: THE OBLIGATION TO ENSURE ACCESS TO HEALTHCARE

*Lengthy waits at check points, fear of bombshells, rockets, and snipers create fear among women, which also plays a role in stopping women, including pregnant women, from accessing hospitals. A large number of women lost their lives and their babies due to the regimes targeting their cars while these pregnant women were on their way to hospital. Many women were afraid and were more comfortable delivering at home, even without anesthesia, which in return creates a risk to their health. I myself witnessed many women who died during home delivery.\**

\*IWHR Clinic at CUNY Law School, interview with Syrian women's rights activist and doctor, Gaziantap, Turkey. (Dec. 2013).

Under Article 12, States Parties are required to take all appropriate measures to eliminate discrimination against women in health care in order to ensure, on an equal basis with men, access to health care services, which include services relating to pregnancy and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.<sup>158</sup>

The Committee explains in General Recommendation No. 30 that, including in times of conflict and in the conflict resolution and post-conflict contexts, States Parties shall “[e]nsure that sexual and reproductive health care includes access to sexual and reproductive health and rights information; psychosocial support; family planning services, including emergency contraception; maternal health services, skilled delivery services; prevention of vertical transmission and emergency obstetric care; safe abortion services ...; prevention and treatment of sexual transmitted infections...; and care to treat injuries ... arising from sexual violence, complications of delivery or other reproductive health complications, among others.”<sup>159</sup>

A major issue that reflects the shortcomings in Syria's compliance with Article 12 of CEDAW is the Syrian government's failure to take measures to provide women with regular access to sexual and reproductive health services.

### **A. SYRIAN WOMEN DO NOT HAVE REGULAR ACCESS TO ADEQUATE, AFFORDABLE, AND QUALITY HEALTHCARE SERVICES**

In General Recommendation No. 24, the Committee explained that Article 12 of CEDAW obligates States Parties to eliminate discrimination against women in accessing health care services, “throughout the life cycle,” including pregnancy.<sup>160</sup> States Parties are to report on measures to eliminate barriers preventing women from obtaining adequate access to health care services, including high fees, long distances, lack of convenient and affordable public transportation between homes and health facilities, and socio-economic factors that restrict

<sup>158</sup> CEDAW, art 12.

<sup>159</sup> CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, at ¶ 52 (c).

<sup>160</sup> CEDAW Comm., *General Recommendation No. 24: Women and health*, ¶ 2.

women's access to healthcare in Syria.<sup>161</sup> States parties are also to address health-hazardous cultural practices such as marital rape, forced, and underage marriages.<sup>162</sup>

The Committee has made clear that in conflict, conflict resolution and post-conflict contexts, States must ensure women adequate and immediate access to essential health care services.<sup>163</sup> The Committee notes that “inadequate infrastructure, lack of professional medical care workers, basic medicines, and health care supplies” disrupt women's access to essential health care services while “[t]he breakdown or destruction of health services, combined with restrictions on women's mobility and freedom of movement” deny them equal access to health care guaranteed by Article 12.<sup>164</sup> States are also obligated under Article 12 to provide internally displaced and refugee women and girl victims of gender-based violence, “with free and immediate access to medical services, legal assistance and a safe environment; [and] access to female health-care providers and services, such as reproductive health care and appropriate counseling.”<sup>165</sup>

Prior to the conflict, there existed in Syria a lack of access to adequate, affordable, quality health care services, including reproductive healthcare, for many Syrian women. Abortion is illegal except to save the life of a pregnant woman,<sup>166</sup> and women in rural areas in particular, suffered high rates of maternal mortality prior to the conflict.<sup>167</sup> In its 2007 Concluding Observations to the Syrian Arab Republic, the CEDAW Committee expressed great concern about Syria's lack of access to reproductive health care services for women, particularly for women in rural areas, and those belonging to marginalized social classes.<sup>168</sup> The Committee additionally noted that many women still require the permission of their husbands to access health services.<sup>169</sup>

Syria's internal conflict has brought devastating impacts on the already inadequate healthcare infrastructure while simultaneously producing greater numbers of gravely injured people.<sup>170</sup> According to the UN Special Rapporteur on the human rights of internally displaced

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<sup>161</sup> Id. ¶ 21.

<sup>162</sup> Id. ¶ 18.

<sup>163</sup> CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, at ¶ 52(c) & (d).

<sup>164</sup> Id. ¶ 50.

<sup>165</sup> Id. ¶ 57 (g).

<sup>166</sup> The Center for Reproductive Rights, *The World's Abortion Laws Map 2013 Update*, 2 (2013), available at, [http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap\\_Factsheet\\_2013.pdf](http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap_Factsheet_2013.pdf)

<sup>167</sup> U.N. High Commissioner for Human Rights, *UN Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health*, (Nov. 14, 2010), available at, <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10532&LangID=E>

<sup>168</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 29, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>169</sup> Id.

<sup>170</sup> The need in the health sector has been growing exponentially as a result of the large numbers of injured people and the heavy damage incurred to the Syrian health system, especially in rural areas. [United Nations General Assembly, *Protection of and Assistance to Internally Displaced Persons: Situation of Internally Displaced Persons in the Syrian Arab Republic*, ¶ 36 (2013).]; Hospitals have been destroyed and local production of medicine has fallen by 90%. [Journal of Global Health. *Medical Neutrality and Solidarity in the Syrian Armed Conflict* (2013), available at, <http://www.ghjournal.org/jgh-print/fall-2013/medical-neutrality-and-solidarity-in-the-syrian-armed-conflict/>]; Doctors Without Borders reports that health care services are being constrained by many factors

persons, “[t]he deliberate targeting of hospitals, medical personnel and transports, the denial of access to medical care, and ill-treatment of the sick and wounded, has been one of the most alarming features of the Syrian conflict.”<sup>171</sup> The International Rescue Committee reported strategic bombings of hospital and health care facilities as well as the targeted killing or imprisonment of medical professionals who provide treatment to civilians,<sup>172</sup> which is in clear violation of the Geneva Conventions.<sup>173</sup> Doctors Without Borders reports numerous human rights violations affecting access to healthcare in the context of the conflict including, “targeting of medical personnel and health facilities; the non-issuance of work authorizations; increasing restrictions on delivery of aid; and attacks on humanitarian convoys.”<sup>174</sup> An estimated 57% of hospitals have been destroyed and local production of medicine has fallen by 90%.<sup>175</sup>

Continued attacks on hospitals and health facilities by both government and non-government forces further compound the consequences of this violence, limiting access to healthcare for entire vulnerable communities, including women and girls.<sup>176</sup> Some women have even been forced to carry pregnancies resulting from rape to term due to lack of health care access, either because it was too dangerous to leave the house to seek abortion or contraceptive services, or because they were denied such services.<sup>177</sup>

*Inside Syrian towns under siege there is little or is no access to women health care providers. There isn't even electricity. When the Regime came to the hospital I worked in, they turned the first floor into a detention center for prisoners so people stopped coming in. Even when women came, with their sick babies, or wanted IUDs, they could not get them. Women wanted contraception, but medical centers cannot provide anything.... We saw severe cases of scabies, lice and Aleppo disease but there are no medications available.\**

\* IWHR Clinic at CUNY Law School, interview with Syrian women's doctor, Gaziantep, Turkey. (Dec. 2013).

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including: the targeting of medical personnel and health facilities; the non-issuance of work authorizations; increasing restrictions on delivery of aid; and attacks on humanitarian convoys. [Mego Terzian, *Speech Delivered to the United Nations Donor Conference on Syria on June 7*, Doctors Without Borders, (Jun. 7, 2013), available at, <http://www.doctorswithoutborders.org/article/speech-delivered-un-donor-conference-syria-june-7>].

<sup>171</sup> Human Rights Council, *Assault on Medical Care in Syria*, ¶ 1, U.N. Doc. A/HRC/24/CRP.2, (2013).

<sup>172</sup> The International Rescue Committee (IRC), Commission on Syrian Refugees, *Syria: A Regional Crisis*, 7 (2013).

<sup>173</sup> Geneva Convention of 12 August 1949, ch. III, art. 19 and ch. IV, art. 24.

<sup>174</sup> U.N. General Assembly, Special Rapporteur on the Situation of Internally Displaced Persons, *Protection of and Assistance to Internally Displaced Persons: Situation of Internally Displaced Persons in the Syrian Arab Republic*, ¶ 36, U.N. Doc. A/67/931 (2013).

<sup>175</sup> U.N. General Assembly, Special Rapporteur on the Situation of Internally Displaced Persons, *Protection of and Assistance to Internally Displaced Persons: Situation of Internally Displaced Persons in the Syrian Arab Republic*, ¶ 36, U.N. Doc. A/67/931 (2013); World Health Organization (WHO), *Health: Syrian Arab Republic, 2013*, 1, (2013), available at, [http://www.who.int/hac/syria\\_dashboard\\_6june2013\\_final\\_small\\_.pdf](http://www.who.int/hac/syria_dashboard_6june2013_final_small_.pdf).

<sup>176</sup> Situation of human rights in the Syrian Arab Republic: Implementation of Human Rights Council resolution 19/22, ¶ 9, U.N. Doc. A/HRC/21/32 (2013).

<sup>177</sup> Syria has the some of the most restrictive laws on abortion access, permitting it only to save a woman's life. *The World's Abortion Laws Map 2013 Update*, 2 (2013), available at, [http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap\\_Factsheet\\_2013.pdf](http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap_Factsheet_2013.pdf).

Evidence collected by the United Nations Independent Commission shows that government forces deliberately deny medical care to those residing in areas that are controlled by or affiliated with the opposition by endangering the few hospitals that remain as well as targeting medical personnel, and interfering with patients transported to hospitals to receive treatment.<sup>178</sup> Such deliberate attacks and tactics, whether committed by government or non-government forces, also limit pregnant women's access to hospitals.<sup>179</sup> An increasing number of women have been forced to give birth through cesarean sections in order to control the timing of their delivery, avoid being harassed at government checkpoints, and to avoid traveling in insecure environments while in labor.<sup>180</sup>

Equally devastating to health outcomes for women, the government and its affiliated militias actively participate in systematic and widespread use of torture, including sexual violence.<sup>181</sup> The conflict in Syria has been increasingly marked by torture and sexual violence, which are being used "as a weapon of war to intimidate parties to the conflict [thereby] destroying identity, dignity and the social fabrics of families and communities."<sup>182</sup>

Women victims who are subjected to sexual violence lack access to immediate health care services. Health consequences of sexual violence span from egregious physical injuries, psycho-social trauma, sexually transmitted diseases including HIV-AIDS, unwanted pregnancies, and stigmatization.<sup>183</sup> The destruction of hospitals and health facilities by both government and non-government forces further compound the consequences of sexual violence, limiting access to healthcare for entire vulnerable communities, including women and girls.<sup>184</sup>

There is an essential need for a wide array of health services and support for women and girls who are being subjected to extreme sexual violence due to the ongoing conflict.<sup>185</sup> Dozens of Syrian women activists have underscored the need specifically for contraception as a safety and survival issue.<sup>186</sup> The lack of contraceptive access has caused many rape victims to face the physical and psychological consequences of both the rape and ensuing pregnancy.<sup>187</sup> Syria has

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<sup>178</sup> U.N. General Assembly, 22<sup>nd</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 18, U.N. Doc. A/HRC/22/59 (2013); *Situation of Human Rights in the Syrian Arab Republic: Implementation of Human Rights Council resolution 19/22*, ¶ 9, U.N. Doc. A/HRC/21/32 (2013).

<sup>179</sup> See World Health Organization Regional Office for the Eastern Mediterranean, *Health Situation in Syria and WHO Response*, (2012), available at, [http://www.who.int/hac/crises/syr/Syria\\_WCOreport\\_27Nov2012.pdf](http://www.who.int/hac/crises/syr/Syria_WCOreport_27Nov2012.pdf).

<sup>180</sup> IWHR Clinic at CUNY Law School, interview with Syrian women's rights activist, Antakya, Turkey. (Dec. 2013); See also, Syria Integrated Needs Assessment, *Syrian Arab Republic* (2013), available at [http://www.who.int/hac/crises/syr/syria\\_integrated\\_needs\\_assessment\\_december2013.pdf?ua=1](http://www.who.int/hac/crises/syr/syria_integrated_needs_assessment_december2013.pdf?ua=1)

<sup>181</sup> International Rescue Committee, *Syria: A Regional Crisis*, at 6, (Jan. 2013), available at, <http://www.rescue.org/sites/default/files/resource-file/IRCReportMidEast20130114.pdf>

<sup>182</sup> U.N. News Centre, *Displacement in Syria giving way for serious gender-based crimes, warns UN official* (Feb. 26, 2013), available at, [http://www.un.org/apps/news/story.asp?NewsID=44230#.Uxc\\_HuddVr0](http://www.un.org/apps/news/story.asp?NewsID=44230#.Uxc_HuddVr0).

<sup>183</sup> WHO, *Violence Against Women and HIV/AIDS: Setting the Research Agenda*, 10 (2010), available at, <http://www.who.int/gender/violence/VAWhiv.pdf>.

<sup>184</sup> U.N. General Assembly, 24<sup>th</sup> session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶¶ 136, 138 & 139, U.N. Doc. A/HRC/24/46 (2013).

<sup>185</sup> Lauren Wolfe, *What's Going on in Syria is about a Lot More Than Chemical Weapons*, *The Guardian* (Oct. 26, 2013), available at, <http://www.theguardian.com/commentisfree/2013/oct/26/syria-peace-talks-women-raped>.

<sup>186</sup> IWHR Clinic Interview with Syrian women, Sarajevo, Bosnia-Herzegovina (2014).

<sup>187</sup> Id.

highly restrictive laws on abortion and permits abortion only to save a woman's life.<sup>188</sup> Women who consent to have an abortion face between six months to three years imprisonment. Those who perform an abortion with a woman's consent face one to three years imprisonment.<sup>189</sup>

The Government of Syria must also address health-related threats that are associated with patriarchal social and cultural norms around sexual assault and rape, prevalent before the conflict. Sexual violence victims, especially rape victims, report being hesitant to seek treatment because of extreme social stigma.<sup>190</sup> After being raped, some victims have been killed by rapists, and some face abandonment and rejection from their family. Some have even been killed, or forced by their families to commit suicide,<sup>191</sup> and many suffer nightmares and symptoms of post-traumatic stress disorder.<sup>192</sup>

## **B. RESPONSE BY THE GOVERNMENT OF SYRIA**

In its report to the CEDAW Committee, the Government of Syria states that under Article 22 of the Syrian Constitution, citizens and their families are guaranteed access to health care services.<sup>193</sup> It describes the 1969 Legislative Decree Number 111, listing the Ministry of Health's main objectives, which include: (1) providing health care services to low-income citizens, and (2) making health care services more accessible to all citizens.<sup>194</sup> The Syrian government also points to statistics showing increased numbers of physicians, nurses, and medical centers around the country.<sup>195</sup> The government also describes several measures to create programs aimed at providing basic access to healthcare in villages around the country, including trainings, education, and awareness campaigns around family planning, maternal health, and sexually transmitted diseases, among other health issues.<sup>196</sup> It states that the has established newly built hospitals in three rural provinces.<sup>197</sup>

As to the government's role in harming women's health in the conflict by carrying out atrocities and preventing women from attaining healthcare services, the government, in its

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<sup>188</sup> Center for Reproductive Rights, *The World's Abortion Laws Map 2013 Update*, 2 (2013), available at, [http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap\\_Factsheet\\_2013.pdf](http://reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap_Factsheet_2013.pdf).

<sup>189</sup> The United Nations, *Abortion Policies: A Global Review*, 120 (2002).

<sup>190</sup> Refugees International, *Syrian Women and Girls: No Safe Refuge*, (Nov. 16, 2012), available at, <http://refugeesinternational.org/policy/field-report/syrian-women-girls-no-safe-refuge>; The International Rescue Committee (IRC), Commission on Syrian Refugees, *Syria: A Regional Crisis*, 7, (2013), available at, <http://www.rescue.org/sites/default/files/resource-file/IRCReportMidEast20130114.pdf> (Syrian women rarely report health problems related to gender-based violence, owing not only to the lack of appropriate mental and physical health services, but also to the threat of severe social stigma and exclusion by family members and society at large); IWHR Clinic at CUNY Law School, interview with Syrian women's rights activist, Antakya Turkey. (Dec. 2013).

<sup>191</sup> Hamida Ghafour, *Syrian Women Who Fled to Jordan Tell of Horrific Rapes Back Home*, *The Star* (Apr. 21, 2013), available at, [http://www.thestar.com/news/world/2013/04/06/syrian\\_women\\_who\\_fled\\_to\\_jordan\\_tell\\_of\\_horrific\\_rapes\\_back\\_h\\_ome.html](http://www.thestar.com/news/world/2013/04/06/syrian_women_who_fled_to_jordan_tell_of_horrific_rapes_back_home.html).

<sup>192</sup> Wassim Mir, *Syria's Rape Crisis: A Nation Suffering*, *Comment Middle East* (Apr. 23, 2013), available at, <http://commentmiddleeast.com/2013/04/syrias-rape-crisis-a-nation-suffering/>.

<sup>193</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 70, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>194</sup> *Id.* 70.

<sup>195</sup> *Id.* 71.

<sup>196</sup> *Id.* 72-81.

<sup>197</sup> *Id.* 71.

Replies to the Committee’s List of Issues, claims that “terrorist” “extremist (Wahhabist and *takfiri*)” groups are the only parties responsible for committing war atrocities.<sup>198</sup> In this regard, the government also claims that “women victims may seek shelter in care centers administered by the Ministry of Social Affairs” or community associations where they can receive treatment and health care services.<sup>199</sup> Since the beginning of the crisis, the government continues, the state has responded “immediately and effectively” to the health needs of citizens.<sup>200</sup> The government states that the Ministry of Health also provides health services for displaced persons at shelters.<sup>201</sup> Finally, the government states it implemented healthcare service “delivery points” with services such as basic medical services and supplies, psychological support, and “basic minimum package of reproductive healthcare in emergency cases.”<sup>202</sup>

Reports from civil society organizations, international organizations and organizations affiliated with the UN show that Syrian government forces and affiliated militia are committing “the crimes against humanity of murder, torture, rape, enforced disappearance and other inhumane acts.”<sup>203</sup> These reports also show that the government and its militias “interfere with and instrumentalise medical care to further strategic and military aims.”<sup>204</sup> In addition, reports by a wide array of agencies and intergovernmental organizations indicate that Syrians, including Syrian women, lack access to adequate healthcare, and that the government and other armed actors have gravely impeded healthcare access in the context of the conflict. According to a recent report published by the World Health Organization (WHO), the UN estimates a total of 9.5 million Syrians are in dire need of humanitarian assistance.<sup>205</sup> The report states, “health services have been disrupted with more than 64% of hospitals and 38% of primary health care facilities out of service.”<sup>206</sup> The government denies healthcare access to women, particularly in opposition-held areas, by destroying or attacking civilian hospitals and medical facilities across the country and targeting medical personnel.<sup>207</sup> This is not only a violation of CEDAW but also of Common Article 3 of the Geneva Conventions which holds that parties to a conflict must ensure that wounded and sick are cared for.

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<sup>198</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic, (Replies of the Syrian Arab Republic)*, Section 1 on Measures and mechanisms to combat violence against women, U.N. Doc. CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>199</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic, (Replies of the Syrian Arab Republic)* 13 U.N. Doc CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>200</sup> Id. 18.

<sup>201</sup> Id. 21.

<sup>202</sup> Id.

<sup>203</sup> U.N. General Assembly, 22<sup>nd</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 10, U.N. Doc. A/HRC/22/59 (2013); *Situation of Human Rights in the Syrian Arab Republic: Implementation of Human Rights Council Resolution 19/22*, ¶ 9, U.N. Doc. A/HRC/21/32 (2013).

<sup>204</sup> Human Rights Council, *Assault on Medical Care in Syria*, ¶ 1, U.N. Doc. A/HRC/24/CRP.2, (2013).

<sup>205</sup> The World Health Organization (WHO), *Syrian Arab Republic Situation Reports*, 1-2, (2014), available at, <http://www.who.int/hac/crises/syr/sitreps/en/>

<sup>206</sup> The World Health Organization (WHO), *Syrian Arab Republic Situation Reports*, 1-2, (2014), available at, <http://www.who.int/hac/crises/syr/sitreps/en/>

<sup>207</sup> U.N. General Assembly, 22<sup>nd</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 34, U.N. Doc. A/HRC/22/59 (2013); U.N. General Assembly, 24<sup>th</sup> Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 136, U.N. Doc. A/HRC/24/46 (2013).

Another recent report published by the United Nations Population Fund (UNFPA) shows that approximately 200,000 pregnant Syrian women give birth in dire conditions due to lack of medical care, disruption of reproductive health supplies, unsafe deliveries, unsanitary conditions, and an absence of skilled birth attendants.<sup>208</sup> One report highlights the dire insufficiency of health access amongst internally displaced people, particularly in northern Syria, with an estimated 10.3 million people, including internally displaced people, living in areas with insufficient health services.<sup>209</sup> The Syrian government's lack of effective measures to provide women with adequate and quality access to healthcare services in both urban and rural areas, in addition to its participation in depriving women such access during the conflict, constitute violations of Article 12 of CEDAW.

Lastly the Government of Syria does not comment on the critical lack of shelters and services for victims that existed before the conflict began.<sup>210</sup> The lack of shelter has risen to crisis levels amidst the conflict as that number of displaced persons in Syria has risen to an estimated 6.5 million and an overall 9.5 million in need of humanitarian assistance.<sup>211</sup> June 2013 about 800 shelters had been officially registered with the Ministry of Local Administration (MoLA), sheltering around 174,000 IDPs. They tend to be heavily overcrowded with insufficient services. It is estimated that these shelters only accommodate about 4.1% of the total displaced population in Syria.<sup>212</sup>

### C. RECOMMENDATIONS

1. The Government of Syria should comply with the Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 30) and take all appropriate measures to ensure universal access for all women, whether residing in urban or rural areas, to a full range of affordable healthcare, including sexual and reproductive health services.<sup>213</sup>
2. The Government of Syria should implement all necessary measures, including legislation, to eliminate restrictions on women's rights to have an abortion. This obligation includes lifting the burden women to prove that abortion is necessary to avoid health.

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<sup>208</sup> The U.N. Population Fund (UNFPA), *An Estimated 200,000 Pregnant Women in Syria in Need of Urgent Care, Warns UNFPA*, (Mar. 19, 2014), available at, <http://www.unfpa.org/public/home/news/pid/16793#sthash.xRQRuqZM.dpuf>.

<sup>209</sup> U.N. General Assembly, Special Rapporteur on the Situation of Internally Displaced Persons, *Protection of and Assistance to Internally Displaced Persons: Situation of Internally Displaced Persons in the Syrian Arab Republic*, ¶ 36, U.N. Doc. A/67/931 (2013).

<sup>210</sup> In 2007, the CEDAW Committee noted its concerned about "the acute lack of shelters and services for victims of violence against women." It also noted concerned that existing laws such as those relating to women's rights to maintenance and work may impede the ability of victims of violence against women to seek protection in the shelters. CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 21, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>211</sup> BBC News, *Million Syria Refugees Registered in Lebanon*, (April 2014), available at <http://www.bbc.com/news/world-middle-east-26864485>.

<sup>212</sup> U.N. Habitat, *Urban Syria: Shelter Needs in Syria* (June 2013) available at, <http://reliefweb.int/sites/reliefweb.int/files/resources/UrbanSnapshots2.pdf>.

<sup>213</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 30, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

3. The Government of Syria should comply with the Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 29) and implement all necessary measures to make reproductive health services, including availability of contraceptives, more accessible to women nationwide, "particularly in rural areas."<sup>214</sup>
4. The Government of Syria should initiate nationwide educational and awareness-raising measures to ensure that women in both urban and rural areas are well educated about their right to seek sexual and reproductive health services and to ensure that women can conveniently access these services.
5. The Government of Syria should comply with the Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 29) and take all necessary measures to provide women with adequate (1) access to healthcare services and (2) access to healthcare facilities, including information, counseling and other services to women, especially to women in rural areas.<sup>215</sup>
6. The Government of Syria should take all appropriate measures to report on their health legislation, plans and policies for women, with reliable data on the incidence and severity of diseases, conditions hazardous to women's health, nutrition, and on the availability and cost-effectiveness of preventive and curative measures.
7. The Government of Syria should comply with the Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 30) and design and implement a plan for establishing a sufficient numbers of shelters and services for victims displaced by the conflict as well as other victims of violence against women throughout Syria.

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<sup>214</sup> Id. ¶ 29.

<sup>215</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 29, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).



## ARTICLE 2: THE OBLIGATION TO ENSURE THE EQUAL RIGHTS OF WOMEN IN CONNECTION WITH ARTICLE 15 THE RIGHT TO LEGAL CAPACITY AND ARTICLE 16: RIGHT TO EQUALITY AND FAMILY RELATIONS

Article 2 calls on States Parties to take measures to prevent discrimination against women by both public and private actors. These measures include incorporating principles of equality into the national constitution and domestic laws and policies. Article 15 calls on States Parties to take measures to ensure women are treated equally with men in all aspects of the law. Article 16 calls on States parties to take measures to eliminate discrimination in marriage and family relations.

### A. THE GOVERNMENT OF SYRIA HAS FAILED TO ENACT LEGISLATION TO ADDRESS GENDER-BASED VIOLENCE

In General Recommendation No. 19, the Committee calls on States Parties to take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private actors.<sup>216</sup> This includes measures to “ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity”<sup>217</sup> and measures to provide “[s]ervices to ensure the safety and security of victims of family violence, including refugees, counseling and rehabilitation programs.”<sup>218</sup> Newly enacted laws must be effective in deterring all forms of gender-based violence,<sup>219</sup> including domestic violence,<sup>220</sup> honor killings,<sup>221</sup> and marital rape.<sup>222</sup>

Recognizing that gender-based violence is exacerbated during conflict and post-conflict, under General Recommendation No. 30, States parties are obligated to “[p]revent, investigate and punish all forms of gender-based violence, in particular sexual violence perpetrated by State and non-State actors;”<sup>223</sup> to “adopt gender-sensitive investigative procedures to address sexual and gender-based violence,”<sup>224</sup> and to “allocate adequate resources and adopt effective measures to ensure that victims of gender-based violence ... have access to comprehensive medical treatment, mental health care, and psychosocial support.”<sup>225</sup> States are also obligated to enact criminal penalties and civil remedies which are necessary to provide effective protection of women against gender-based violence such as domestic violence, rape crimes, marital rape,<sup>226</sup> and honor killings.<sup>227</sup>

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<sup>216</sup> CEDAW Comm., *General Recommendation No. 19: Violence against women*, ¶ 24 (a).

<sup>217</sup> Id. ¶ 24 (b).

<sup>218</sup> Id. ¶ 24 (r)(iii).

<sup>219</sup> Id. ¶ 24(a).

<sup>220</sup> Id. ¶ 24(r)(i).

<sup>221</sup> Id. ¶ 24(r)(ii).

<sup>222</sup> Id. ¶ 23.

<sup>223</sup> CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, ¶ 38 (b).

<sup>224</sup> Id. ¶ 38 (c).

<sup>225</sup> Id. ¶ 38 (e).

<sup>226</sup> CEDAW Comm., *General Recommendation No. 19: Violence against women*, ¶ 23.

<sup>227</sup> Id. ¶ 23.

### **a. Domestic Violence**

In its 2007 Concluding Observations to the Syrian Arab Republic, the Committee expressed its concern that the government's plans do "not contemplate specific legislation to criminalize violence against women, including domestic violence."<sup>228</sup> The Committee further stressed "that several provisions in the Penal Code condone acts of violence against women by exempting perpetrators from punishment."<sup>229</sup> In particular, it mentioned the definition of rape in Article 489 of the Penal Code, which excludes marital rape; Article 508 of the Penal Code exempting rapists from punishment if they marry their victims; and Article 548 of the Penal Code which exonerates perpetrators of honor crimes.<sup>230</sup>

According to a 2010 study, as many as 1 in 4 Syrian women are or have been subjected to physical violence by their husbands.<sup>231</sup> The Syrian government has enacted no effective mechanisms to protect women from domestic violence.<sup>232</sup> As the internal armed conflict in Syria continues, women and girls are at a greater risk of domestic violence, and the fear of sexual violence has been a trigger for displacement of many families.<sup>233</sup> This was emphasized by the UN Special Rapporteur on the Human Rights of Internally Displaced People noting in the 2013 report on Syria that "women and girls are at risk of sexual violence during flight and in the displacement phase, owing to family separation, lack of basic structural and social protections, and limited safe access to services."<sup>234</sup>

### **b. Rape (including marital rape)**

Syria lacks legislative measures to address marital rape. In its 2007 Concluding Observations to the Syrian Arab Republic, the CEDAW Committee urged the government of Syria to enact, "as soon as possible," legislation ensuring that violence against women constitutes a criminal offense and to amend the Penal Code "without delay" ensuring that marital rape is criminalized.<sup>235</sup> The Syrian government's 2012 Second Periodic State Report to CEDAW confirms that a perpetrator of sexual violence can avoid punishment by marrying his victim.<sup>236</sup>

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<sup>228</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 19, U.N. Doc. CEDAW/C/SYR/CO/1, (2007).

<sup>229</sup> *Id.*

<sup>230</sup> *Id.*

<sup>231</sup> Rhonda Roumani, *Study Reveals Domestic Abuse is Widespread in Syria*, The Christian Science Monitor (April 25, 2006), available at, <http://www.csmonitor.com/2006/0425/p04s01-wome.html>.

<sup>232</sup> *Id.*

<sup>233</sup> U.N. Security Council, Special Representative of the Secretary-General on Sexual Violence in Conflict, Zainab Hawa Bangura, U.N. Doc. S/PV.6949 (2013); Report of the Special Rapporteur on the human rights of internally displaced persons, *Protection of and Assistance to Internally Displaced Persons: Situation of Internally Displaced Persons in the Syrian Arab Republic*, ¶ 16, U.N. Doc. A/67/931 (2013), available at, [http://www.ohchr.org/Documents/Issues/IDPersons/A\\_67\\_931Syria\\_report.pdf](http://www.ohchr.org/Documents/Issues/IDPersons/A_67_931Syria_report.pdf); The International Rescue Committee (IRC), Commission on Syrian Refugees, *Syria: A Regional Crisis*, 6, (2013).

<sup>234</sup> Report of the Special Rapporteur on the human rights of internally displaced persons, *Protection of and Assistance to Internally Displaced Persons: Situation of Internally Displaced Persons in the Syrian Arab Republic*, ¶ 61, U.N. Doc. A/67/931 (2013).

<sup>235</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 19-20, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>236</sup> *Syrian Arab Republic's Second Periodic Report, CEDAW*, 16, U.N. Doc. CEDAW/C/SYR/2 (2012).

The definition of rape in Syria's Penal Code specifically excludes marital rape.<sup>237</sup> As to Article 508 of the Penal Code, which exempts rapists from punishment if they marry their victims, the State Report notes that a newly legislated decree law drafted in 2011 includes a provision imposing higher punishment on rapists.<sup>238</sup> However, the decree still imposes lesser punishment for rapists who marry their victims since the new standard sets two years of imprisonment as a minimum penalty for the crime.<sup>239</sup>

### *c. Honor Killings*

According to the 2010 Country Reports on Human Rights Practices by the UN High Commissioner for Refugees (UNHCR), approximately 300 to 400 honor crimes occur in Syria every year.<sup>240</sup> Syria's legal provisions continue to diminish the gravity of such acts. In 2009, the President abolished Article 548 of the Penal Code, which had waived punishment for a man who killed a female family member in a case "provoked" by "illegitimate sex acts," as well as for a husband who kills his wife because of an extramarital affair.<sup>241</sup> However, the new Article still allows for mitigated punishment for "honor killings," requiring a sentence of at least two years as opposed to a total exemption of penalty.<sup>242</sup> Article 548 of the Penal Code reads as follows: "He who catches his wife, sister, mother or daughter by surprise, engaging in an illegitimate sexual act and kills or injures them unintentionally must serve a minimum of two years in prison."<sup>243</sup>

## **B. RESPONSE BY THE GOVERNMENT OF SYRIA**

In its Second Periodic State Report to the CEDAW Committee, the Syrian government contends that domestic violence is criminalized under various penal code laws contending "a woman who is subjected to violence has the right to report to the judiciary and can seek separation from her spouse for many reasons without losing her rights."<sup>244</sup> She can also complain to the court to address specific instances of violence under Sections 489-492 of the Penal Code.<sup>245</sup> However, such laws are ineffective due to widespread negative cultural norms which categorize women's issues as private issues that should remain within the household,<sup>246</sup> fear of family exclusion and societal stigma,<sup>247</sup> lack of resources to provide the victims with the

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<sup>237</sup> Id.

<sup>238</sup> Id.

<sup>239</sup> Id.

<sup>240</sup> Nancy Xie & Melissa Barber, *Licensed to Kill*, Harvard International Review (Jan. 12 2012), available at, <http://hir.harvard.edu/labor/licensed-to-kill>.

<sup>241</sup> Human Rights Watch, *Syria: No Exceptions for 'Honor Killings,'* (Jul. 28, 2009), available at, <http://www.hrw.org/news/2009/07/28/syria-no-exceptions-honor-killings>.

<sup>242</sup> Id.

<sup>243</sup> Id.

<sup>244</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 16-25, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>245</sup> Id. 15.

<sup>246</sup> U.N. Women, *Inter-agency Assessment Gender-based Violence and child Protection among Syrian Refugees in Jordan, with a Focus on Early Marriage*, 28 (2013).

<sup>247</sup> Id.

necessary support services,<sup>248</sup> and women's lack of education about their rights.<sup>249</sup> The Report mentions no laws providing redress to domestic violence victims, insisting that victims prefer to "resort to their families," rather than the law, to address their concerns.<sup>250</sup>

According to the Syrian government's Replies to the CEDAW Committee's List of Issues, the amendment to Penal Code 508, which provides that a rapist is liable for a term of two years imprisonment, even if he marries the victim, "is a step along the road."<sup>251</sup> As to marital rape, the government has disregarded the Committee's concerns and failed to recognize the significance and severity of marital rape. In an attempt to justify the lack of legislative measures addressing marital rape in the 2012 Constitution revision, the government states that marital rape is theoretical and not a pervasive problem, and that it is therefore unnecessary to address it in the law: "marital rape is a speculative and a phenomenon which occurs only at the individual level and is not widespread."<sup>252</sup>

With regard to honor killings, the government notes in its response to the Committee's List of Issues that in 2011, Article 548 of the Syrian Penal Code was repealed, increasing the punishment for honor killings to five to seven years: "Every person who surprises a spouse, descendant, ascendant, or sibling in the act of committing illicit sexual intercourse or in a compromising sexual situation with another individual and unintentionally kills or injures either or both of them, shall be liable to imprisonment for a term of *five to seven years* in the case of killing."<sup>253</sup> However, the Penal Law still discriminates against women because it calls for a lesser sentence for perpetrators who murder women in the name of "honor" while imposing a higher sentence for other forms of murder. This failure to entirely abolish impunity for "honor" killing is inconsistent with the Committee's repeated calls upon the Syrian government to "give high priority" to modifying or repealing, "without delay and within a clear time frame," discriminatory Penal Code legislations.<sup>254</sup> Also, this slight increase in punishment has proven ineffective in deterring and protecting women from honor killings. (See page 36 for more information on honor killings).

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<sup>248</sup> Id.

<sup>249</sup> Rhonda Roumani, *Study Reveals Domestic Abuse is Widespread in Syria*, The Christian Science Monitor, (April 25, 2006), available at, <http://www.csmonitor.com/2006/0425/p04s01-wome.html>.

<sup>250</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 16-25, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>251</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic, (Replies of the Syrian Arab Republic)*, 12, U.N. Doc. CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>252</sup> Syrian Arab Republic, *Second Periodic Report to CEDAW*, 16, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>253</sup> Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic, (Replies of the Syrian Arab Republic)*, 11, U.N. Doc. CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>254</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 18, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

**C. THE GOVERNMENT OF SYRIA HAS FAILED TO AMEND DISCRIMINATORY PROVISIONS WITHIN THE MARRIAGE LAW; TO ENACT LEGISLATION PROHIBITING FORCED AND UNDER AGED MARRIAGES, AND TO PROTECT REFUGEES FROM SUCH MARRIAGES.**

**A. Forced Marriages**

In General Recommendation No. 21, the Committee states that under Article 16 of CEDAW, a woman's right to choose a spouse and enter freely into marriage is central to her life and to her dignity and equality as a human being.<sup>255</sup> According to the Committee, States violate Article 16 of the Convention by allowing forced marriages or remarriages on the basis of custom, religious beliefs, or the ethnic origins of particular groups of people.<sup>256</sup> Women's right to choose when, if, and whom they will marry must be protected and enforced by law.<sup>257</sup>

The Committee has reaffirmed this right under international law in its recommendations to States. For example, in its 2008 Concluding Observations to Yemen, the Committee expressed concern with that country's Personal Status Law of 1992, which does not require women's direct consent for her guardian to conclude her marriage.<sup>258</sup>

In General Recommendation No. 30, the Committee also addresses the issue of forced marriage in conflict and post-conflict situations.<sup>259</sup> "In such situations," the Committee states, "women and girls may be coerced into marriage to placate armed groups, or ... for financial security.... During conflict girls are particularly susceptible to forced marriage.... Families also force girls into marriage due to poverty and a misconception that it may protect them against rape."<sup>260</sup> To address this, the Committee recommends that States Parties shall protect and enforce by law a "woman's right to choose when, if, and whom she will marry"<sup>261</sup> and shall "Prevent, investigate and punish gender-based violations such as forced marriages."<sup>262</sup>

The Syrian conflict has had a disparaging impact on women's rights to choose a spouse and enter freely into marriage, and has increased early marriages, particularly amongst refugees. The Independent International Commission of Inquiry on Syria reports that "[i]n refugee camps, women and girls are vulnerable to sexual exploitation, forced marriage and trafficking."<sup>263</sup> According to the Commission, in at least one case, armed actors arranged a woman's marriage to "protect her honor" after she was raped at a checkpoint.<sup>264</sup>

Further limiting Syrian women's equality and rights with regard to marriage is the fact

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<sup>255</sup> CEDAW Comm., *General Recommendation No. 21: Equality in marriage and family relations*, ¶ 16.

<sup>256</sup> Id.

<sup>257</sup> Id.

<sup>258</sup> CEDAW Comm., *Concluding Observations: Yemen*, ¶¶ 38-39, U.N. Doc. CEDAW/C/YEM/CO/6 (2008).

<sup>259</sup> CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, ¶ 62.

<sup>260</sup> Id.

<sup>261</sup> CEDAW Comm., *General Recommendation No. 21: Equality in marriage and family relations*, ¶ 16.

<sup>262</sup> CEDAW Comm., *General Recommendation No. 30: Women in conflict prevention, conflict and post-conflict situations*, ¶ 65 (a).

<sup>263</sup> U.N. Human Rights Council, 23<sup>rd</sup> Session, *Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 35, U.N. Doc. A/HRC/23/58 (2013).

<sup>264</sup> Id. ¶ 99.

that women are not allowed to marry without the permission of their male guardian, a provision not required for men under the Personal Status Laws.<sup>265</sup> Finally, many marriages are arranged between families rather than representing a choice by either the bride or groom, placing additional family pressure on women and girls to marry under nonconsensual terms.<sup>266</sup> In sum, economic and familial pressures mean that in many cases Syrian women and girls are made to accept marriages they may not otherwise consent to.<sup>267</sup>

### ***b. Early Marriages***

In General Recommendation No. 21, the Committee states that Article 16 precludes States Parties from permitting or giving validity to a marriage between persons who have not attained the age of majority.<sup>268</sup> The Committee considers that the minimum age for marriage should be 18 years for both men and women.<sup>269</sup>

In its 2007 Concluding Observations, this Committee expressed concern about the existence of child marriages and urged the Syrian government to prohibit child marriages.<sup>270</sup> Similarly, the 2012 Concluding Observations of the Committee on the Rights of Child on the Syrian Arab Republic pointed out the discrepancy between the marriageable age of men and women.<sup>271</sup> While men reach the age of majority at 18 and women at 17, judges have the discretion to marry boys as young as 15 and girls as young as 13, upon a determination that the underage parties have reached puberty.<sup>272</sup>

Early marriage is not uncommon in Syria.<sup>273</sup> However, the insecurity and economic pressures of the conflict appear to be driving the practice and further reducing the age of marriage among girls. Most refugees have no source of income and few prospects of employment. With growing economic instability, child labor and early marriages become more prevalent in refugee communities. While boys contribute to household income as wage earners, most girls are prevented from working by cultural restrictions on their mobility; instead they provide family income as brides. Refugees have reported that some parents also arrange early marriages as a way to protect their daughters from the insecurity of refugee life. Refugee women in Jordan reported that it was more likely for young girls to marry significantly older men, since older men are thought to be more capable of providing protection and stability.<sup>274</sup> Additionally,

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<sup>265</sup> Article 21 of the Personal Status Act.

<sup>266</sup> Freedom House, *Women's Rights in the Middle East and North Africa 2010: Syria*, 8 (2010);

<sup>267</sup> *Id.* 8-9.

<sup>268</sup> CEDAW Comm., *General Recommendation No. 21: Equality in marriage and family relations*, ¶ 36.

<sup>269</sup> *Id.*

<sup>270</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶¶ 33-34, U.N. Doc. CEDAW/C/SYR/CO/1, (2007).

<sup>271</sup> Convention on the Rights of Child (CRC), *Concluding Observations: Syrian National Republic*, ¶ 30, U.N. Doc. CRC/C/SYR/CO/3-4 (2012).

<sup>272</sup> Freedom House, *Women's Rights in the Middle East and North Africa: Syria*, (2010), at 8, available at, [http://www.freedomhouse.org/sites/default/files/inline\\_images/Syria.pdf](http://www.freedomhouse.org/sites/default/files/inline_images/Syria.pdf).

<sup>273</sup> Similarly, A UN WOMEN Survey of refugees in Jordan found over half of the women interviewed were married before the age of 18 and all the normal age of marriage for girls is 15 to 18 year of age, with 6% believing 12 to 14 years of age. CARE, SYRIAN REFUGEES IN URBAN JORDAN, 36-38 (2013); U.N. Women, GENDER-BASED VIOLENCE AND CHILD PROTECTION AMONG SYRIAN REFUGEES IN JORDAN, WITH A FOCUS ON EARLY MARRIAGE 30 (2013).

<sup>274</sup> MADRE interview with refugees in Zata'ari refugee camp (Apr. 2013) (on file with author); See also, U.N. Women, GENDER-BASED VIOLENCE AND CHILD PROTECTION AMONG SYRIAN REFUGEES IN JORDAN, WITH A FOCUS

early and forced marriages may be arranged to “save the honor” of women who have been victims of rape or who may be perceived to have been raped.<sup>275</sup> A UN Women study of refugees in Jordan revealed gaps in both awareness and services with regards to early marriage and its consequences.<sup>276</sup>

Data is limited but there are indications that early marriage has increased as a result of the ongoing conflict.<sup>277</sup> UNICEF’s deputy representative in Jordan reported to the media that in 2012, 18 percent of the registered marriages of Syrians in Jordan involved people under 18 years old, up from 12 percent the previous year.<sup>278</sup> UN Women examined the issue of early marriage amongst Syrian refugees in Jordan and found that while the rate of early marriage amongst that population is comparatively high, and likely is influenced by the conflict, the practice stems from “traditional and primarily rural practices that originate in Syria.”<sup>279</sup> The report also found that harsh economic circumstances are a significant factor in the rate of early marriages amongst Syrian refugees.<sup>280</sup> UN Women found that the rate of early marriage among surveyed Syrian refugees in Jordan was 51.3% amongst female refugees, making the average rate of underage marriage 33.2%.<sup>281</sup>

#### D. RESPONSE BY THE GOVERNMENT OF SYRIA

In its Second Periodic State Report to the Committee, the Syrian government states that under Articles 21-14 of the Personal Status Law, women’s consent is a precondition and is necessary for a valid marriage.<sup>282</sup> However, Articles in the Personal Status Law requiring women’s consent for marriage are ineffective due to widespread cultural practices, where families pressure female family members to marry a person against their will: “women may be placed under pressure to consent to a marriage they are not completely comfortable with, either for economic reasons or because their family desires the match.”<sup>283</sup> Due to the conflict, early and forced marriages of girls “is now used by some families, including in internally displaced person communities, to better “protect” girls in the absence of male family members and lessen the financial pressure on families.”<sup>284</sup> The government, in its Replies to the Committee’s List of

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ON EARLY MARRIAGE 3 (2013).

<sup>275</sup> U.N. Women, GENDER-BASED VIOLENCE AND CHILD PROTECTION AMONG SYRIAN REFUGEES IN JORDAN, WITH A FOCUS ON EARLY MARRIAGE 21 FN. 41 (2013).

<sup>276</sup> Id.

<sup>277</sup> Child Protection Working Group, *Syria Protection Assessment, 2013*, (2013), at 17, available at, [http://www.crin.org/docs/SCPA-FULL\\_Report-LIGHT.pdf](http://www.crin.org/docs/SCPA-FULL_Report-LIGHT.pdf)

<sup>278</sup> Stephanie Nebehay, *Syrian Child Refugees Face Exploitation, UNICEF says*, Reuters, (Oct. 2013), available at, <http://uk.reuters.com/article/2013/10/10/uk-syria-crisis-children-idUKBRE9990UI20131010>

<sup>279</sup> UN Women, *Gender-based Violence and Child Protection Among Syrian Refugees in Jordan, with a Focus on Early Marriage*, (Jul. 2013), at 29, available at, <http://data.unhcr.org/syrianrefugees/download.php?id=4351>

<sup>280</sup> Id. 30-31.

<sup>281</sup> Id. 29.

<sup>282</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 89, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>283</sup> Freedom House, *Women’s Rights in the Middle East and North Africa 2010: Syria*, 8-9 (2010).

<sup>284</sup> Report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, *Protection of and Assistance to Internally Displaced Persons: Situation of Internally Displaced Persons in the Syrian Arab Republic*, ¶ 62, U.N. Doc. A/67/931 (2013), available at, [http://www.ohchr.org/Documents/Issues/IDPersons/A\\_67\\_931Syria\\_report.pdf](http://www.ohchr.org/Documents/Issues/IDPersons/A_67_931Syria_report.pdf).

Issues, fails to report reliable data on or measures it has taken to combat such practices.<sup>285</sup>

Regarding underage marriages, the Government of Syria states that Articles 15-16 of the Personal Status Law prohibit early marriage and set the minimum age of marriage to 16 years old for females and 18 years old for males.<sup>286</sup> This standard, however, is discriminatory and fails to comply with Committee's General Comment 21, setting an equal minimum marriage age both men and women, at 18 years.<sup>287</sup> Also, the government's Second Periodic Report fails to mention that under Article 18.2 of Personal Status Law, a judge has the discretion to marry a boy at 15 years and a girl at the age of 13.<sup>288</sup> Despite the Committee's reiteration of its concerns regarding child marriages in its 2013 List of Issues, the government's Replies to the List of Issues fails to mention information regarding any governmental measures to prohibit underage marriage.<sup>289</sup>

#### **E. THE GOVERNMENT OF SYRIA HAS FAILED TO TAKE SUFFICIENT MEASURES TO ELIMINATE DISCRIMINATORY LAWS AND PRACTICES IN THE AREAS OF DIVORCE, MARITAL PROPERTY, AND INHERITANCE**

In General Recommendation No. 21, the Committee states any law or custom that grants a greater right to property to men than to women at the end of marriage, or following a relative's death, "is discriminatory and will have a serious impact on a woman's practical ability to divorce her husband, to support herself or her family and to live in dignity as an independent person."<sup>290</sup> The Committee emphasizes the right of women to own an equal share of property with their spouse during and after marriage.<sup>291</sup> The Committee also requires States Parties to include comment on the legal or customary provisions relating to inheritance laws as they affect the status of women.<sup>292</sup>

In its 2007 Concluding Observations to Syria, the Committee expressed concern about discriminatory inheritance laws in Syria that grant unequal rights to women and men to inheritance and divorce,<sup>293</sup> concerns the Syrian government has failed to address.<sup>294</sup> Syria's

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<sup>285</sup> See Generally, Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic, (Replies of the Syrian Arab Republic)*, U.N. Doc CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>286</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 89, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>287</sup> CEDAW Comm., *General Recommendation No. 21: Equality in marriage and family relations*, ¶ 36. (The Committee considers the minimum age for marriage to be 18 years for both men and women).

<sup>288</sup> Freedom House, *Women's Rights in the Middle East and North Africa 2010: Syria*, 8 (2010); U.N. Educational, Scientific and Cultural Organization (UNESCO), Social and Human Sciences, *Women in Personal Status Laws: Iraq, Jordan, Lebanon, Palestine, Syria*, 26 (2005), available at, [http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SHS/pdf/Women\\_in\\_Personal\\_Status\\_Laws.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SHS/pdf/Women_in_Personal_Status_Laws.pdf).

<sup>289</sup> See Generally, Syrian Arab Republic, *List of issues and questions in relation to the second periodic report of the Syrian Arab Republic, (Replies of the Syrian Arab Republic)*, U.N. Doc. CEDAW/C/SYR/Q/2/Add.1 (2014).

<sup>290</sup> CEDAW Comm., *General Recommendation No. 21: Equality in marriage and family relations*, ¶ 28.

<sup>291</sup> Id. ¶ 30.

<sup>292</sup> Id. ¶ 34.

<sup>293</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶¶ 33-34, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>294</sup> Id.



Constitution states that all citizens are equal before the law in their rights and obligations.<sup>295</sup> However, inheritance and divorce laws, as codified in the Personal Status Law, which are based on Shari'a law, continue to discriminate against women in the areas of divorce and inheritance.<sup>296</sup> Such laws not only constitute a violation of Articles 15 and 16 of CEDAW, but also contradict the Syrian Constitution.<sup>297</sup>

The greatest legal obstacle to gender equality remains the Personal Status law, which limits women's rights in marriage and divorce.<sup>298</sup> Men enjoy the right to divorce, or unilateral repudiation, and are only required to inform the authorities of the decision to divorce.<sup>299</sup> In contrast, women's access to divorce is time consuming and difficult.<sup>300</sup> Women can only initiate divorce proceedings in the courts by a showing of injury or invoking a justification such as dissension, lack of affinity, or abandonment. Also, women's rights within marriage, including grounds for divorce, are covered more by the marriage contract and less by law.<sup>301</sup>

The inheritance and marital property laws under the Personal Status Law,<sup>302</sup> which are based on Shari'a law, are also discriminatory because they grant women unequal rights with men to inheritance and marital property.<sup>303</sup> Under Shari'a law, a woman receives half of her brother's share from the deceased parent's estate.<sup>304</sup> Also, while husbands inherit half of their deceased wife's property, a wife only inherits one-quarter of her deceased husband's property.<sup>305</sup> Even the limited inheritance rights granted to women are frequently violated, particularly when it comes to inherited land, as women are pressured to cede their inheritance to male family members, since they are presumed to be the primary care takers of the family.<sup>306</sup>

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<sup>295</sup> The Constitution of the Syrian Arab Republic. Art. 33 ¶ 3 (2012). available at, [http://www.al-bab.com/arab/docs/syria/syria\\_draft\\_constit\\_ution\\_2012.htm](http://www.al-bab.com/arab/docs/syria/syria_draft_constit_ution_2012.htm) (“Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed”).

<sup>296</sup> The Syrian Personal Status Law 59 of 1953, [amended by Law 34 of 1975], available at, [http://carnegieendowment.org/files/Syria\\_APS.doc](http://carnegieendowment.org/files/Syria_APS.doc).

<sup>297</sup> CEDAW, art 15 & 16; The Constitution of the Syrian Arab Republic. Art. 33 ¶ 3 (2012). available at, [http://www.al-bab.com/arab/docs/syria/syria\\_draft\\_constit\\_ution\\_2012.htm](http://www.al-bab.com/arab/docs/syria/syria_draft_constit_ution_2012.htm) (“Citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed”).

<sup>298</sup> Freedom House, *Women's Rights in the Middle East and North Africa 2010: Syria*, 2 (2010).

<sup>299</sup> Id. at 6.

<sup>300</sup> Id. at 6.

<sup>301</sup> Id. at 6.

<sup>302</sup> The Syrian Personal Status Law 59 of 1953, [amended by Law 34 of 1975], available at, [http://carnegieendowment.org/files/Syria\\_APS.doc](http://carnegieendowment.org/files/Syria_APS.doc), (The Syrian Personal Status Law 59 of 1953, (amended by Law 34 of 1975) is essentially a codified sharia law with specific exemptions for Druze, Christians, and Jews. It is applied to all Syrian Muslims by sharia courts); Carnegie Endowment for International Peace & Fundación para las Relaciones Internacionales y el Diálogo Exterior, *Arab Political Systems: Baseline Information and Reforms – Syria*, (2008) available at, [http://carnegieendowment.org/files/Syria\\_APS.doc](http://carnegieendowment.org/files/Syria_APS.doc).

<sup>303</sup> See, Turkish Weekly, *Women Miss Out on Property Rights in Syria*, (Oct. 28, 2008), available at, <http://www.turkishweekly.net/news/60305/women-miss-out-on-property-rights-in-syria.html>.

<sup>304</sup> Id.

<sup>305</sup> Id.

<sup>306</sup> Id.

## F. RESPONSE BY THE GOVERNMENT OF SYRIA

The Syrian government contends that the Committee's recommendations regarding Syria's delay in eradicating discriminatory divorce and inheritance laws are inaccurate because the government has "hundreds of new laws" since the year 2000 "where men and women have the same rights."<sup>307</sup> The government continues that the Personal Status Law "includes many rights" for women but needs to be understood within the terms of respecting freedom of religion and the diversity of religions in Syria.<sup>308</sup> The government also notes in its report that it is difficult to change laws in a conservative society and that the law of international treaties cannot compete against religion.<sup>309</sup>

However, the State does not indicate that it has taken measures to address cultural norms that reinforce discrimination, and it refuses to remove the discriminatory provisions from the Personal Status Law. It is a well-founded principle of international law that discrimination that is based on religion, whether by government or private actors, shall be prohibited.<sup>310</sup> The CEDAW Committee repeatedly addressed religious and cultural practices that violate women's rights. In this respect, the Committee explicitly stated in General Recommendation No. 29 that "[n]either traditional, religious or cultural practice nor incompatible domestic laws and policies can justify violations of the Convention."<sup>311</sup>

## G. RECOMMENDATIONS

1. The Government of Syria should comply with the Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 20) and enact, "as soon as possible," legislation addressing violence against women, "including domestic violence... to ensure that violence against women constitutes a criminal offence, that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished."<sup>312</sup>
2. The Government of Syria should comply with the Committee's 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 29) and, "without delay," amend Penal Law 508 by repealing the provision allowing for mitigated sentences for rapists who marry their victims.<sup>313</sup>

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<sup>307</sup> Syrian Arab Republic, *Second Periodic Report CEDAW*, 15 & 19, U.N. Doc. CEDAW/C/SYR/2 (2012).

<sup>308</sup> *Id.*

<sup>309</sup> *Id.*

<sup>310</sup> David Llewellyn & H. Victor Condé, *Freedom of Religion or Belief under International Humanitarian Law and International Criminal Law*, *Trinity Law Review*, 12 *Trinity L. Rev.* 39, (2004), at 10.

<sup>311</sup> CEDAW Comm., General Recommendation No. 29: *Economic consequences of marriage, family relations and their dissolution*, ¶ 54.

<sup>312</sup> CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶ 20, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

<sup>313</sup> *Id.* ¶ 19.

3. The Government of Syria should comply with the Committee’s 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 19) and repeal, “without delay,” Penal Law 489, which “excludes marital rape” from its definition of rape.<sup>314</sup>
4. Government of Syria should implement the CEDAW Committee’s 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 19) and repeal, “without delay,” Penal Law 548, which “exonerates perpetrators of ‘honor crimes,’” by treating them as any other crime, and not providing mitigated sentences.<sup>315</sup>
5. The Government of Syria should comply with the Committee’s 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 34) and take all necessary measures to repeal or amend provisions in the Personal Status Law that, in intent or effect, discriminate against women and girls, specifically in the areas of marriage, divorce, inheritance, and marital property.<sup>316</sup>
6. The Government of Syria should comply with the Committee’s 2007 Concluding Observations (CEDAW/C/SYR/CO/1 ¶ 20) and implement effective and adequately funded “educational and awareness-raising measures aimed at law enforcement officials, the judiciary, health service providers, social workers, community leaders and the general public, in order to ensure that they understand that all forms of violence against women are unacceptable.”<sup>317</sup>
7. The Government of Syria should take all appropriate measures to allocate adequate resources and adopt effective measures to ensure that victims of gender-based violence, in particular sexual violence, have access to comprehensive medical treatment, mental health care, and psychosocial support.
8. The State should take all appropriate measures, including legislation, to abolish the harmful practice of child marriage and to provide legal safeguards so that no children under 18 are coerced into marriage, especially for refugees.
9. The State should take all appropriate measures to adopt gender-sensitive procedures to investigate and prosecute rape and other gender-based violence, in order to avoid revictimization and stigmatization; establish special protection units and gender desks in police stations; and undertake investigations confidentially and sensitively.

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<sup>314</sup> Id.

<sup>315</sup> Id.

<sup>316</sup> Id. ¶ 34.

<sup>317</sup> Id. ¶ 20.

## ANNEX I

### **Outcome Document Syrian Women's Initiative for Peace and Democracy 11-13 January 2014 Geneva**

Syrian women and men, as well as the international community, are focused on the Geneva II peace conference.

We are Syrian women of diverse backgrounds and positions, and we represent a broad range of women's and civil society organizations. We have come together to prepare this set of demands and priorities based on our first-hand experience of the suffering of the Syrian people, which has become intolerable.

We share the hopes of the Syrian people that the Geneva II conference will be a serious step towards ending the violence and bloodshed in Syria.

We believe that the Geneva I Communique provides a foundation to end all forms of tyranny and to initiate the transition to a civil, democratic, pluralistic, and united state.

#### **Priorities as related to ending the fighting, promoting the peace process and improving the humanitarian situation**

1. Adopt the Geneva 1 Communique (stop the fighting and achieve a cessation of armed violence, the release of arbitrarily detained women and men, freedom of movement throughout the country for journalists, respect for freedom of association and the right to demonstrate peacefully). To this we add: release the women and men who have been abducted by the various armed groups.
2. Lift the siege and allow for the timely provision of humanitarian and medical aid to all affected regions, under the supervision of an independent commission with international oversight.
3. Implement an immediate ceasefire as a first step towards the permanent cessation of military operations. This can be achieved by relying upon mutually reinforcing negotiation tracks at local, national and international levels, with the robust participation of Syrian civil society.
4. Call upon the United Nations Security Council to support the efforts of the UN Arab League Joint Mission, by authorizing the appointment and deployment of negotiators, observers and peacekeepers, as needed.
5. Take immediate measures to stop gender-based violence as per UN Security Council Resolutions 1820 1888, 1960; adopt gender-sensitive policies and protect women and girls against sexual exploitation, early marriage, human trafficking and rape.

6. Cooperate with neighboring states and secure international guarantees to ensure the expulsion of all non-Syrian combatants.
7. Put an end to all arbitrary detentions, court rulings and administrative decisions, and lift all travel restrictions on activists and politicians so as to assure their freedom of movement.
8. Ensure the safe and dignified return of all refugees and internally displaced people to their former cities and places of residence, with provisions for compensation, family reunification, and guaranteeing gender equality in this process.
9. Put an immediate end to the recruitment of child soldiers as per UN Security Council resolutions 1261, 1612, and 1882. Immediately establish a national education program that suspends all ideological curricula and which adopts modern unified curricula that respect human rights, the equality of citizens regardless of gender, and which addresses the issue of children who have been unable to attend school.
10. Demand the lifting of economic sanctions on the Syrian people immediately upon signing of the agreement between the parties and the launching of a transitional process. This demand does not include the lifting of sanctions imposed on individuals and private corporations.
11. Dismantle all arbitrary tribunals, terror-related courts, as well as sharia commissions, and reinstate civil law throughout Syria.
12. Develop a national plan that protects vulnerable structures, including economic, security, administrative and cultural sites, as well as the country's infrastructure.
13. Take measures to secure all official records and documentation in cooperation with appropriate civil society organizations.
14. Restructure and reform security and police institutions in line with international norms of human rights and gender sensitivity.
15. Bring to justice and render accountable the perpetrators of war crimes and crimes against humanity, and launch the process of transitional justice.

### **Demands on the Negotiation Process**

1. Adopt the Geneva 1 Communique as the baseline for a political solution and as the starting point for the negotiation process that seeks to build a comprehensive and lasting peace, and which lays the foundation for a state based on citizenship and the rule of law.
2. Start the democratic transition process to end tyranny in all its forms and lay the foundations for a pluralistic, civil and democratic state in which all components of society are equal, and which upholds human rights in accordance with international norms and guarantees freedom of speech and belief.
3. Affirm that the State should be based on the principles of peaceful transfer of power, separation of powers, independence of the judiciary, rule of law and neutrality of the military.

4. Reject any political solution based on ethnicity, confessionalism, religion or military balance on the ground, to protect the territorial integrity of Syria and the unity of its people.
5. Demand that the constitution guarantees the equality of women and men and penalizes all forms of discrimination and violence against women.
6. Demand a constitution that guarantees the rights of equal citizenship to the Syrian people in all their diversity and affiliations.
7. Establish a clear timetable for the negotiation phase.
8. Urge all relevant international actors to end all forms of military support to the parties and call upon neighboring states to control their borders with Syria in accordance with international laws.
9. Develop a national Disarmament Demobilization and Reintegration program.
10. Incorporate strategies to guarantee gender-sensitive transitional justice.
11. Prohibit the transitional government from entering into contractual agreements that extend beyond its tenure or from signing contracts that may bind the country beyond the transitional stage or threaten its independence in any way.

#### **Demands related to the participation of women in the peace process**

1. We call on the United Nations to uphold its commitments to implement Security Council Resolutions 1325, 1820, 1888, 1889, 1960, 2106, 2122, regarding the status of women in armed conflict. We ask the United Nations pressure on the international community and on the negotiating parties to guarantee the effective participation of women on all negotiating teams and committees in a proportion of no less than 30% for the duration of the negotiation process.
2. Ensure that representatives of women's organizations and civil society organizations be included as observers in the negotiations.
3. Ensure the meaningful participation of women in the entire political process, including in the formation of the transitional governing body, the constitutional drafting committee, the drafting of the election law, mechanisms of transitional justice, the local administration and local committees for civil peace.
4. Appoint a Syrian gender advisor to the mediation team and establish communication channels to enable joint action and coordination with women's and civil society organizations.
5. Exert pressure on all the parties and mobilize public opinion campaigns to uphold international commitments and ensure the implementation of the outcomes of the Geneva 2 conference.

6. Work with the mediation team to ensure that the negotiating parties adopt the document produced by this meeting.
7. Take all necessary measures to protect women who participate in negotiations and throughout the political process.
8. Build the capacity of Syrian women activists and civil society organizations in the areas of negotiation and peacebuilding skills.







