

*Seeking Accountability and Effective Response for
Gender-Based Violence Against Syrian Women:*
Women's Inclusion in Peace Processes



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Table of Contents

I. Introduction	1
II. Background: Women in the Syrian Conflict.....	2
III. Ending Gender-Based Violence and Building Lasting Peace: Women’s Voices Must Be Included in the Peace Negotiations	3
IV. Gender-Based Violence in Syria	6
A. Patterns of Practice: Sexual Violence in Syria’s Conflict	6
B. Challenges to Reporting Gender-Based Violence: Stigma.....	8
C. Accessing Health Care for Sexual Violence Survivors in Syria.....	8
D. Gender-Based Violence and Syrian Refugees	10
i. Early Marriage	11
ii. The Statelessness of Refugee Children	12
V. Sexual Violence Doesn’t End with Peace	13
A. Gender-Based Violence Before the Conflict	14
B. Access to Health Care Before the Conflict.....	16
C. Discriminating against Syrian Women in Nationality.....	17
VI. Conclusions and Recommendations.....	19



Oxfam demonstration, Montreux, Switzerland

I. Introduction

Confronting deep-seated, discriminatory attitudes that lead to violence—especially in areas of protracted conflict—is essential to advancing sustainable peace. Given the current climate of armed violence and political instability in Syria, it is crucial right 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. Prioritizing local leadership is critical for building community resilience to end human rights violations. In this moment of crisis in Syria, it is precisely this approach to social change that will help weave solutions out of uncertainty and build more equitable foundations in the long term.

As violence in Syria has escalated, egregious accounts of gender-based violence continue to accrue, yet these crimes go largely undocumented because stigma and lack of access deter survivors from seeking medical attention or psychosocial support. The growing global commitment to ending gender-based violence in conflict was powerfully exemplified by the “Declaration on Preventing Sexual Violence in Conflict,” issued by the G8 consortium in April 2013. The declaration mandates systems for prevention, treatment, and redress of gender-based violence. However the international community has marginalized the voices of women in a

faltering peace process that to date shows poor chances of producing a cease-fire much less signed peace accords. In the midst of the conflict, the issue of gender-based violence is at risk of being forgotten and ignored.

In response to the urgent humanitarian crisis resulting from the war in Syria and the need to ensure that women's experiences and leadership are included in peace talks and reconstruction initiatives, MADRE, in partnership with the Women's International League for Peace and Freedom (WILPF) the International Women's Human Rights (IWHR) Clinic and Syrian women's organizations, initiated the project, Seeking Accountability and Effective Response for Gender-Based Violence against Syrian Women. Our project integrates direct care and capacity building with documentation and reporting of gender-based violence in order to increase participation of Syrian women leaders in international venues charged with upholding human rights and building peace, and to bring accountability and redress for sexual violence crimes in transitional justice processes.

This report provides a brief background on the Syrian conflict, the role of women in the initial peaceful uprising, and their subsequent exclusion from high-level peace negotiations. It then explains the importance of including women's voices in peace negotiations processes as a means to address gender-based violence post-conflict and to build sustainable peace. The third section provides an overview of ongoing sexual and gender-based violence against women in Syria and those who are refugees in the context of the conflict. The fourth section identifies the elements of the pre-conflict social and legal framework that must be changed in order to ensure that the end of combat brings meaningful peace to women in Syria. The final section offers recommendations for future peace negotiations and transitional justice processes addressing Syria.

II. Background: Women in the Syrian Conflict

On March 15, 2011 Syrians, in mass, took to the streets peaceful protests against President Bashar Al-Assad, drawing inspiration from a wave of uprisings against repressive regimes throughout North Africa and the Middle East, popularly called the Arab Spring. As it began, the Syrian revolution was marked by solidarity across religion, sect, and ethnicity, and included significant participation from Syria's minority populations.¹ In one of many vibrant displays of this solidarity, participants at an April 2011 protest chanted "Peaceful, peaceful; let there be no sectarianism; Islam and Christian."² There was also widespread grassroots mobilization encompassing both rural and urban areas, and young women and men organized hundreds of local protest committees.³

From the beginning, women played an active role in protests and grassroots mobilization. They filled both leadership roles and the general ranks of the local committees, and organized demonstrations, such as a sit-in on March 16, 2011 in front of the Interior Ministry in Damascus, calling for the release of prisoners.⁴ As the uprising became militarized, however, women have been sidelined, and their voices marginalized in armed wings and in the political bodies forming outside Syria.⁵ Women have also been shut out of ongoing peace negotiations.⁶

¹ MOHJA KAHF, *THEN AND NOW: THE SYRIAN REVOLUTION TO DATE* 8-10 (2013).

² *Id.* at 9.

³ *Id.* at 11.

⁴ *Id.* at 7, 11.

⁵ *Id.*

⁶ Dulcie Leimbach, *Syrian Women's Groups Push for Equal Role at Geneva II Talks*, Pass Blue (Dec. 5, 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*, *Open Democracy* (Jan. 12, 2014), available at



Projectiles over Aleppo, Svria

As demonstrations continued to be met with violent government repression, what began as peaceful protests by pro-democracy Syrians became a protracted war between the Assad regime and opposition forces. Over 100,000 Syrians have died, and the death toll is rising. Within Syria, the brutal violence has cut off millions of people from access to food, water, fuel, sanitation, health care and other vital needs. Entire communities have been left under siege, denied life-saving humanitarian aid. More than four million people have been displaced within Syria since the beginning of the conflict; almost two million have become refugees, fleeing to neighboring Jordan, Lebanon, Turkey and Iraq.⁷ The United Nations predicts as many as 4.25 million could be forced to leave their homes, becoming internally displaced or refugees by the end of

<http://www.opendemocracy.net/5050/madeleine-rees/syrian-women-demand-to-take-part-in-peace-talks-in-geneva>.

⁷ Human Rights Council, *Report of the independent international commission of inquiry on the Syrian Arab Republic*, ¶ 35 (2013). See also, Maria Caspani, *U.N. Calls for More Funding to Protect Syrian Women and Girls*, Thomson Reuters Foundation (Jan. 14, 2014), available at <http://www.trust.org/item/20140114150524-d07cs/?source=hpbreaking>.



Syrian Refugee Camp, Iraq

this year.⁸ Three-quarters of Syrian refugees are women and children who have streamed by the thousands across borders to escape violence.

Superimposed onto Syria's civil war is a regional, even global, battle for influence, with weapons pouring in from multiple countries to the Syrian military and to various armed opposition groups within Syria. What cannot be lost in this geopolitical wrangling, is the initial grassroots base of the Syrian uprising, the particular toll of the conflict on Syrian women, and the need for women to be included in peace negotiations now, so that women's voices are not marginalized in future processes to bring peace and to reshape Syrian society.

⁸ Tom Miles, *UN Sees 4 Million More Syrians Fleeing Homes or Country in 2014*, Reuters (Oct. 7, 2013), available at <http://in.reuters.com/article/2013/10/07/syria-crisis-refugees-idINDEE99607620131007>.

III. Ending Gender-Based Violence and Building Lasting Peace: Women's Voices Must Be Included in the Peace Negotiations

There is a growing consensus amongst government and multilateral institutions that sustainable peace requires inclusivity—an understanding backed by research that shows peace negotiations involving civil society greatly reduces the risk of the peace agreements failing.⁹ 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.”¹⁰ 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.

Yet women are rarely 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. An assessment conducted by UN Women of 21 major peace processes demonstrated that women represent a strikingly low number of participants: Only 2.4% of signatories to the 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.¹¹

⁹ 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).

¹⁰ UN SECRETARY-GENERAL, *WOMEN, PEACE AND SECURITY* ¶ 33 (2002).

¹¹ UN WOMEN, *WOMEN'S PARTICIPATION IN PEACE NEGOTIATIONS: CONNECTIONS BETWEEN PRESENCE AND INFLUENCE*, 2 (2009).

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.¹² In this way, agreements that lack language promoting gender equality may become the very obstacles to overcoming nondiscrimination after peace is declared.

In Bosnia-Herzegovina, 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 sexual violence as a weapon of war, no women or civil society members were permitted in the Dayton negotiations that formally ended the conflict.¹³ The resulting peace agreement institutionalized a permanent state of ethnic division, and utterly failed to address the needs of the civilian population that suffered innumerable war crimes. In its enumeration of rights, the Dayton Accords did not promote the inclusion of women in senior levels of the new government, resulting in women's under-representation from the very beginning.¹⁴ The Accords failed to emphasize the rights of sexual violence survivors or to offset women's ongoing political marginalization. Nearly 20 years later, survivors of war-time rape, sexual violence, and other war crimes and human rights violations continue to struggle to obtain any form of reparations.¹⁵

¹² UN SECRETARY-GENERAL, WOMEN, PEACE AND SECURITY ¶ 201 (2002).

¹³ *Id.* at ¶ 198.

¹⁴ *Id.* at ¶ 201.

¹⁵ Maja Bjelajac, *Bosnia War Compensation Dispute*, *Institute for War and Peace Reporting* (Jan. 10, 2011), available at <http://iwpr.net/report-news/bosnia-war-compensation-dispute>; Amnesty International, *Bosnia and Herzegovina: Time for Republika Srpska to Make*



Mafraq, Jordan

These difficult lessons undergird United Nations Security Council Resolution 1325 (2000), which requires equal participation by women in peace negotiations and post-conflict rebuilding. In 2013, the Security Council reaffirmed the importance of including women in peace negotiations by adopting Resolution 2122.¹⁶ Indeed, the cautionary tale of Bosnia-Herzegovina applies forcefully to Syria.

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. In fact, without such mechanisms, Syria could be left with a legal framework that ignores the momentum that civil society and specifically Syrian women's organizations have already created towards law reform—allowing gender-based violence to continue with impunity.

Reparations for War-time Rape (Oct. 31 2012), available at <https://www.amnesty.org/en/news/bosnia-and-herzegovina-time-republika-srpska-make-reparations-war-time-rape-2012-10-31>.

¹⁶ 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).



Syrian Refugee Camp, Iraq

Conversely, the peace process represents a strategic opening for advancing Syrian women's rights and addressing widespread gender-based crimes related to the current conflict. That is the lesson from numerous contexts, where women have organized to win meaningful roles in transitional justice processes, successfully broadening their societies' concept of justice to include recognition of women's rights in law. For instance, under customary law in Apartheid South Africa, women were treated as minors. They could not own or inherit property, nor did they have the legal rights to custody of their children. They were completely dependent economically on their fathers or husbands.¹⁷

In the early 1990's, recognizing that specific problems faced by women were being ignored or sidelined in the negotiations to end apartheid, women's groups began to

¹⁷ Sheila Meintjes, *The Women's Struggle for Equality During South Africa's Transition to Democracy*, 53 (1996), available at <http://www.transformation.ukzn.ac.za/index.php/transformation/article/viewFile/698/514>.

organize.¹⁸ South African women united across party lines and presented a plan in which each political party should have one-third women within the negotiating team for the constitutional process. The result was a resounding advance for gender equality as the Constitution's Bill of Rights includes, among other provisions, a prohibition on discrimination based on gender, sex, sexual orientation, marital status or pregnancy.¹⁹ It also includes the right for women to make decisions about reproduction, the right to health care, and the right education.²⁰

South Africa is but one example underscoring the various ways that Syrian women's participation in peace negotiations could result in better conditions for women and civil society as a whole. The inclusion of women in peace talks not only strengthens post-conflict democratic outcomes, but reflects a democratic imperative that negotiations address the needs and experiences of those most impacted by the conflict. As a deliberate tactic of warfare, Syrian women and girls have been targeted with violence, including sexual assault. Women and children make up the majority of refugees spilling over borders into neighboring countries. They comprise over half of Syrian society, and their priorities must be a central concern of peace talks. Similarly, the voices of peaceful, democratic Syrian civil society groups must be heard in the Geneva process. Preliminary results of a survey of representatives from a range of civil society groups indicate that this is indeed what Syrian civil society wants—meaningful participation.²¹

¹⁸ Id. at 48-49.

¹⁹ S. Africa Const. ch. 2, §9 (3)(4). 1996.

²⁰ S. Africa Const. ch. 2, §12(2)(a); §27(a); §29(a). 1996.

²¹ Madani, *Building More Inclusive Political Transitions: A Review of the Syrian Case* (Dec. 18, 2013), available at <http://madanisyria.com/?q=node/19>.

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. Yet Syrian women are still organizing across sectarian lines to address immediate humanitarian concerns while simultaneously organizing for representation at the negotiating tables, demonstrating Syrian unity and calling for peace.²² 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.



Displacement camp in northern Syria

IV. Gender-Based Violence In Syria

A. Patterns of Practice: Sexual Violence in Syria’s Conflict

Over the last three years, shocking patterns of sexual violence perpetrated by both regime and opposition forces have emerged. Numerous UN bodies and representatives, as well as NGOs, have documented widespread and systemic violence, as 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.”²³ Over the last two years, the UN Independent International Commission of Inquiry on the Syrian Arab

Republic has consistently found the pattern and practice of sexual violence carried out in the conflict to meet the standard of crimes against humanity and war crimes.²⁴ In March 2013, the Secretary General reiterated the Commission’s finding that acts of sexual violence are part of a widespread and systematic attack by the government.²⁵

The Commission has repeatedly confirmed a pattern of the use of sexual violence as a weapon of war during house searches and at

²² 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; Dulcie Leimbach, *Syrian Women’s Groups Push for Equal Role at Geneva II Talks*; Madeleine Rees, *Syrian Women Demand to Take Part in Peace Talks in Geneva*.
²³ UN 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.

²⁴ U.N. General Assembly, 21st Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, U.N. Doc. A/HRC/21/50 (2012); U.N. General Assembly, 22nd Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, U.N. Doc. A/HRC/22/59 (2013); U.N. General Assembly, 24th Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, U.N. Doc. A/HRC/24/46 (2013).
²⁵ “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).



Syrian refugee camp, Iraq

checkpoints, committed by Syrian government forces and government-controlled militia (Shabbiha).²⁶ The Commission has collected numerous reports of rape, including gang rape, and other forms of sexual violence against women and girls believed to be affiliated with the opposition.²⁷ In several instances, government soldiers and Shabbiha members reportedly entered homes and raped women and girls in front of family members,

²⁶ U.N. General Assembly, 22nd 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, Az Zabadani and various locations in Hamah, Idlib and Aleppo governorates. The governorates of Dara'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, 21st Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic* ¶¶ 98-99, U.N. Doc. A/HRC/21/50 (2012).

²⁷ 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).

sometimes killing the victims afterwards.²⁸ In October 2012, for example, government armed forces entered a private family residence near Aleppo, threatening to kill a woman's children, if she did not reveal where her husband was hiding.²⁹ When she refused to say where he had gone, she was held by the head, sexually assaulted, and then killed in front of her six children.³⁰ In Karm-Al Zeitoun there were accounts of women forced to walk naked in the streets.³¹ Additional reports note that family members of activists and opposition fighters are specifically targeted.³²

UN Experts have also documented sexual violence against children perceived to be pro-opposition by members of the Syrian intelligence services and the Syrian Armed Forces. Sexual violence was reportedly used to "humiliate, harm, force confessions or pressure a relative to surrender."³³ While in detention, both boys and girls have been subjected to electric shocks to, or burning of, the genitals, and rape.³⁴ The Commission,

²⁸ 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, 21st Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic* ¶ 28, U.N. Doc. A/HRC/21/50 (2012).

²⁹ IWHR Clinic Interview with Syrian women in Antakya, Turkey, Dec. 5, 2013 (on file with authors).

³⁰ Id.

³¹ U.N. General Assembly, 21st Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic* ¶¶ 98-99, U.N. Doc. A/HRC/21/50 (2012).

³² Report of the Secretary-General, *Sexual Violence in Conflict*, ¶ 85, U.N. Doc. A /67/792-S /2013/149 (2013).

³³ 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).

³⁴ See, for example, U.N. General Assembly, 24th Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic* ¶¶ 97-98, U.N. Doc. A/HRC/24/46 (2013); Security

through its own investigations and documentation, 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.³⁵

B. Challenges to Reporting Gender-Based Violence: Stigma

The devastating consequences of sexual violence during armed conflict are compounded by social stigma and ostracism, threat of honor killings, and rampant impunity that leaves women at ongoing risk of attacks and with little hope of ever achieving justice.

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.³⁶ One Syrian women’s rights activist stated that, “If it is made known that a woman has been raped, no one will want to marry her.”³⁷

Upon release from detention, checkpoints, and after house raids, women may be alienated

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.* ¶ 36.

³⁵ U.N. General Assembly, 19th Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 87, U.N. Doc. A/HRC/19/69 (2012).

³⁶ 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>.

³⁷ IWHR Clinic Interview Syrian women in Antakya, Turkey, Dec. 4, 2013 (on file with authors).

from their families, or viewed as “unfit for marriage.” In one instance, a woman who was detained and interrogated for nearly two hours was subsequently divorced by her husband, because he assumed she had been raped and believed her to no longer have a “good reputation.”³⁸

United Nations Population Fund (UNFPA) has documented cases in which rape has been considered so shameful that women and girls have been killed by their families in honor crimes.³⁹ Clearly, the life-threatening stigma attached to women who have endured sexual violence discourages many Syrian women from ever coming forward. Without strong community-based programs designed to identify sexual violence survivors and enable them to come forward safely for assistance, many victims will remain invisible.

C. Accessing Health Care for Sexual Violence Survivors in Syria

According to the UN Human Rights Council, “The deliberate targeting of hospitals, medical personnel and transports, the denial of access

“In Aleppo my friend and her husband were stopped at a checkpoint. My friend was taken away for interrogation for over two hours. When she was released, her husband drove her to her father’s home, left her there, and divorced her. He divorced her because he thought she might have been raped [while detained] and he no longer thinks she has a good reputation.”

³⁸ *Id.*

³⁹ Hamida Ghafour, *Syrian Women Who Fled to Jordan Tell of Horrific Rapes Back Home*, The Star, (Apr. 6, 2013), available at http://www.thestar.com/news/world/2013/04/06/syrian_women_who_fled_to_jordan_tell_of_horrific_rapes_back_home.html.

to medical care, and ill-treatment of the sick and wounded, has been one of the most alarming features of the Syrian conflict.”⁴⁰

“There is no access to female health care. There isn’t even electricity. If women came in with their babies, or wanted IUDs, they could not get them. Women wanted contraception, but medical centers cannot provide anything.... We see severe cases of scabies, lice, Aleppo disease but there is no medications available.”

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,⁴¹ which is in clear violation of the Geneva Conventions.⁴² Doctors Without Borders reports numerous human rights violations affecting access to health care 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.”⁴³ Hospitals have been destroyed and local production of medicine has fallen by 90%.⁴⁴

Health consequences of sexual violence span from egregious physical injuries, psychosocial trauma, sexually transmitted diseases

⁴⁰ U.N. Human Rights Council, 24th session, *Assault on Medical Care in Syria*, ¶ 1, U.N. Doc. A/HRC/24/CRP.2 (2013).

⁴¹ The International Rescue Committee (IRC), Commission on Syrian Refugees, *Syria: A Regional Crisis* 7 (2013).

⁴² Geneva Convention of 12 August 1949, ch. III, art. 19 and ch. IV, art. 24.

⁴³ Megó Terzian, *Speech Delivered to the United Nations Donor Conference on Syria on June 7*, Doctors Without Borders, (June 5, 2013).

⁴⁴ World Health Organization, *Health: Syrian Arab Republic, 2013*, (2013), available at, http://www.who.int/hac/syria_dashboard_6june2013_final_small_.pdf.

including HIV-AIDS, unwanted pregnancies, and stigmatization. Attacks on hospitals and health facilities by both government and non-government forces further compound the consequences of sexual violence, limiting access to health care for entire vulnerable communities, including women and girls.⁴⁵ Women have been increasingly giving birth through cesarean sections in order to control the timing of their delivery and to avoid traveling in insecure environments while in labor.⁴⁶

With scarce availability of medical care, access to therapeutic abortion),⁴⁷ Syrian women’s organizations have stressed the urgent need for access to contraception.

Dozens of Syrian women activists have

“There are lengthy waits at check points, fear of bombshells, rockets, and snipers which also plays a role in stopping them from accessing hospitals. Many women are afraid and feel safer delivering at home without a doctor. I know of many women who died during home delivery.”

⁴⁵ U.N. General Assembly, 24th 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).

⁴⁶ IWHR Clinic Interview with Syrian women in Antakya, Turkey, Dec. 5, 2013 (on file with authors); See also Syria Integrated Needs Assessment: Syrian Arab Republic, December 2013, available at http://www.who.int/hac/crises/syr/syria_integrated_need_s_assessment_december2013.pdf?ua=1

⁴⁷ Syria only allows for instances of abortion when the woman’s life is in danger and only if her husband or father consents to the procedure.⁴⁷ Penal Law, Art. 227-228, (1949) [Syrian Arab Republic](Article 227: Every woman who miscarried as she used the same means used by other consent or be punished with imprisonment from six months to three years; Article 228: one of the oldest by any means abortion on a woman or attempt to abort her consent shall be punished imprisonment from one year to three years), available at [in Arabic], http://thawra.alwehda.gov.sy/_print_veiw.asp?FileName=35282512420050817221638.

underscored the need for contraception as a safety and survival issue.⁴⁸ Even in times of peace, the ability to decide whether and when to become pregnant undergirds women’s ability to exercise other human rights. Syrian women today are experiencing widespread hunger and malnutrition, severe stress, lack of medical care, forced displacement and increased burdens of care for society’s most vulnerable members. Under these adverse conditions, control over one’s fertility becomes a paramount issue.

D. Gender-Based Violence and Syrian Refugees

Since the beginning of the conflict in 2011, the number of refugees has grown from approximately 600,000 to more than 1.85 million.⁴⁹ In accounts from refugees who fled conflict-affected cities, women and girls cite rape, or the fear of rape, and kidnapping as the main reasons they fled.⁵⁰ Such fears have been confirmed by the Secretary-General’s 2013 report on sexual violence in conflict, which noted that sexual violence has been used to forcibly displace Syrians internally and across borders.⁵¹

In early 2014, the UNFPA reported that it

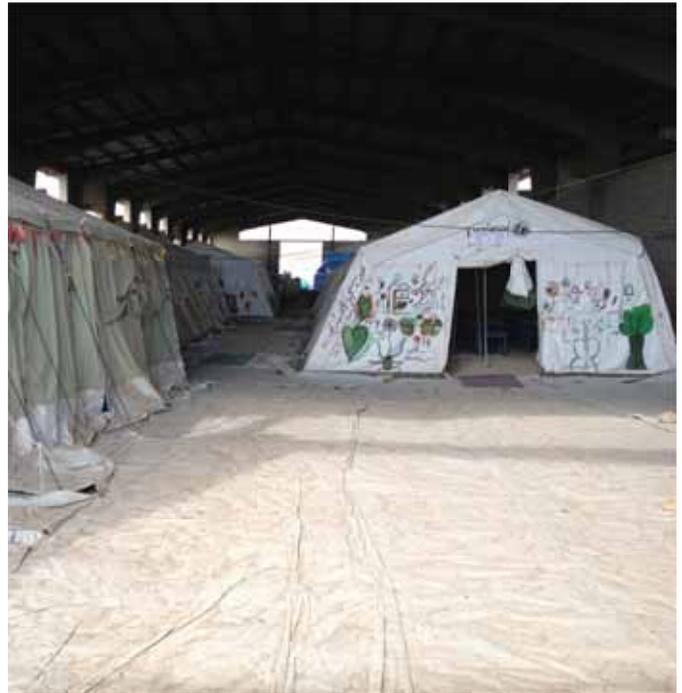
⁴⁸ IWHR Clinic Interview with Syrian women, Sarajevo, Bosnia-Herzegovina Feb. 10-14, 2014 (on file with authors).

⁴⁹ U.N. General Assembly, 24th Session, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic ¶ 35, U.N. Doc. A/HRC/24/46 (2013); See also, Maria Caspani, *U.N. Calls for More Funding to Protect Syrian Women and Girls*, Thomson Reuters Foundation.

⁵⁰ Security Council, *Report of the Secretary-General on Children and Armed Conflict in the Syrian Arab Republic*, ¶ 34, U.N. Doc. S/2014/31 (2014); 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>.

⁵¹ Report of the Secretary-General, *Sexual Violence in Conflict*, ¶ 8, U.N. Doc. A /67/792-S /2013/149 (2013).



School for Syrian refugee children, Iraq

provided aid or support to 38,230 victims of gender-based violence in Syria over the previous year.⁵² In Lebanon, home to the largest number of Syrian refugees at 850,000 people, the UN agency said it provided treatment for sexual violence victims in 17 hospitals and health care centers “covering the potential needs of 1,200 survivors.”⁵³ It is impossible to know how the numbers in Syria compare to the pre-conflict situation, or the precise degree rape is being used as a systematic weapon of war.⁵⁴ Data collection is hampered by the social stigma attached to rape, by women’s knowledge that coming forward exposes them to risk without necessarily giving them access to needed services, and by women’s lack of mobility in

⁵² Tom Miles, *U.N. Aided 38,000 Victims of Syrian Gender-based Violence in 2013*, Reuters (Jan. 08, 2014), available at <http://www.reuters.com/article/2014/01/08/us-syria-crisis-rape-idUSBREA0711R20140108>.

⁵³ Id.

⁵⁴ Zainab Hawa Bangura, the U.N. Special Representative on Sexual Violence in Conflict, has previously said that pro-government forces are “credibly suspected” of being responsible for patterns of rape and sexual violence.



Blanket distribution outside Za'atari camp, Jordan

the context of ongoing warfare.⁵⁵ However “snapshot” figures serve as strong indicators of a larger problem.

According to a UN Women survey of Syrian refugees in Jordan, 83 percent of surveyed refugees did not know of services available for survivors of gender-based violence.⁵⁶ Women also typically stated that they were more likely to report gender-based violence to another family member or religious figure who could handle the situation quietly rather than report an incident to a service provider or the

⁵⁵ Due to the high level of insecurity and limited ability to travel to conflict-affected areas, the Commission has been unable to determine the magnitude of sexual violence inside of Syria. Report of the Independent International Commission of Inquiry on the Syrian Arab Republic ¶ 4 Annex IX, U.N. Doc. A/HRC/22/59 (2013).

⁵⁶ U.N. Women, GENDER-BASED VIOLENCE AND CHILD PROTECTION AMONG SYRIAN REFUGEES IN JORDAN, WITH A FOCUS ON EARLY MARRIAGE 2 (2013).

police.⁵⁷ Many women also reported fearing the consequences for speaking openly about gender-based violence such as violence from male family members who would claim they brought public shame to the family.⁵⁸ Women also reported experiencing increased domestic violence that they attributed to heightened stress from living in unstable conditions.⁵⁹ An assessment conducted by the United Nations High Commissioner for Refugees (UNHCR) adds that Syrian women have experienced sexual abuse or exploitation from community based organizations when seeking services, which could further deter reporting.⁶⁰

i. Early Marriage

Early marriage is not uncommon in Syria.⁶¹ 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

⁵⁷ Id. at 2-3.

⁵⁸ Id. at 24.

⁵⁹ Id.; Syria Deeply Beta, *Worsening Violence Against Syria's Women*, (Dec. 3, 2013), available at, http://beta.syriadeeply.org/2013/12/worsening-violence-syrias-women/#.UxZ5jl4U_Ps

⁶⁰ Human Rights Watch, *Lebanon: Women Refugees From Syria Harassed, Exploited*, (Nov. 27, 2013), available at, <http://www.hrw.org/news/2013/11/26/lebanon-women-refugees-syria-harassed-exploited>.

⁶¹ 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).

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.⁶² Additionally, 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.⁶³ A UN Women study of refugees in Jordan revealed gaps in both awareness and services with regards to early marriage and its consequences.⁶⁴

ii. The Statelessness of Refugee Children

Among the near two million Syrian refugees in neighboring countries,⁶⁵ UNHCR reports that a significant number have no officially recognized nationality.⁶⁶ According to a UNHCR survey of birth registrations in Lebanon, about 600 refugee infants out of 781 assessed did not have official birth certificates.⁶⁷ UNHCR noted lack of birth

⁶² 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 ON EARLY MARRIAGE 3 (2013).

⁶³ U.N. Women, GENDER-BASED VIOLENCE AND CHILD PROTECTION AMONG SYRIAN REFUGEES IN JORDAN, WITH A FOCUS ON EARLY MARRIAGE 21 FN. 41 (2013).

⁶⁴ Id.

⁶⁵ Human Rights Council, *Report of the independent international commission of inquiry on the Syrian Arab Republic* ¶ 35 (Aug. 2013). See also, Thomson Reuters Foundation, *U.N. Calls for More Funding to Protect Syrian Women and Girls*, (Jan. 2014), available at <http://www.trust.org/item/20140114150524-d07cs/?source=hpbreaking>.

⁶⁶ United Nations High Commissioner for Refugees, LACKING A NATIONALITY, SOME REFUGEES FROM SYRIA FACE ACUTE RISKS (2013), available at <http://www.unhcr.org/52b45bbf6.html>.

⁶⁷ United Nations High Commissioner for Refugees, THE FUTURE OF SYRIA: REFUGEE CHILDREN IN CRISIS 5 (2013), available at [registration is also a serious concern in Jordan, where over 1,400 known children in Za’atari refugee camp born between the end of 2012 through July 2013 had yet to receive birth certificates.⁶⁸](https://s3-eu-west-</p></div><div data-bbox=)

This is not only an issue for Syrians whose personal documents were lost or destroyed in Syria, but for those who wed in religious ceremonies and never completed the process of legal marriage registration.⁶⁹

Syrian parents fleeing the conflict have little recourse to obtaining prior marriage documentation that may have been left behind, lost or destroyed. Even for those Syrians capable of returning, the civil registration system that records births, deaths and marriages is not functioning.⁷⁰

I married a Turkish man when I first arrived to Antakya. Since then neither the Syrian government or the Turkish government is willing to grant my son any legal status. Syria won't grant my son citizenship because I married a Turk, a non-Syrian, and Turkey bars my son from any legal status because we are refugees. Now I feel like I am in jail because I am afraid to even take my son out of this town because he does not have a passport or any legal status.

1.amazonaws.com/unhcr-campaigns/childrensreport/Future-of-Syria-UNHCR-v13.pdf.

⁶⁸ Id. at 55.

⁶⁹ United Nations High Commissioner for Refugees, 2014 SYRIA REGIONAL RESPONSE PLAN 21 (2014). It should be noted that under law, Syrian refugees could petition Jordanian courts for recognition of marriages. However, this process near impossible for wives who’s husbands are absent, missing, or deceased and is also cost prohibitive and not commonly known. Id.

⁷⁰ SYRIA INTEGRATED NEEDS ASSESSMENT: SYRIAN ARAB REPUBLIC 27 (2013), available at http://www.who.int/hac/crises/syr/syria_integrated_needs_assessment_december2013.pdf?ua=1



UN campaign to encourage registration

Unregistered/undocumented children of single mothers face an acute risk of being stateless. UNFPA estimates that there are some 50,000 pregnant refugees who need care and about 21,000 newborns whose mothers are refugees.⁷¹

An estimated 75 percent of the refugees live outside formal settlements, and 43 percent of those families are headed by women. For single mothers, including those whose children were born of rape, it is nearly impossible to register their children's nationality. The consequences are grave: children may be denied basic services such as education and health care, including vaccinations, and they may be unable to return to Syria.⁷²

⁷¹ Press Release *UNFPA Calls for More Support to Address the Special Needs of Syrian Women and Girls*, UNFPA (Jan. 13 2014), available at <http://www.unfpa.org/public/home/news/pid/15933#sthash.nRH147Vb.dpuf>.

⁷² United Nations High Commissioner for Refugees, *LACKING A NATIONALITY, SOME REFUGEES FROM SYRIA*

V. Sexual Violence Doesn't End with Peace

Potential grounds to address sexual violence in post-war tribunals are being established. After determining that the Syrian military's operations in Homs in February and March 2012, and in Al Haffe in June of that year were "part of a widespread or systematic attack against a civilian population," the International Commission of Inquiry on Syria in August 2012 concluded "that the rapes committed during these attacks, made with knowledge of the attacks, could be prosecuted as crimes against humanity."⁷³ The Commission further found that reasonable grounds exist to find that these acts of sexual violence and torture may also amount to war crimes.⁷⁴

However, sexual violence does not consequently end when armed conflict ceases. Nor does it end after international tribunals are concluded. Without basic legal protections, infrastructure for enforcing prosecution, and the competency and political will to implement protection and redress, sexual violence is likely to continue and may also increase. 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 sexual violence post-conflict won't end with a peace agreement, unless women can work from a position of power to establish mechanisms to address it.

In post-conflict contexts, strengthening rape laws can be a key step towards gender equality, including by providing the

FACE ACUTE RISKS (2013), available at <http://www.unhcr.org/52b45bbf6.html>.

⁷³ U.N. General Assembly, 21st Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic* ¶ 102 U.N. Doc. A/HRC/21/50.

⁷⁴ *Id.* at SUMMARY.

infrastructure that allows women to see that legal protections apply to them as full members of society, and thus encourages them to report sexual violence. Effective laws should not only criminalize sexual violence in conflict, but also serve as deterrence for future sexual violence crimes. A competent law prohibiting rape should provide prohibition, prosecution, punishment, and redress for rape both in the context of conflict and peace.

However revising criminal penal codes to comply with international standards is only half the equation for reducing sexual violence in countries recovering from conflict. Laws must then be implemented, requiring broad acceptance among various social sectors, judges, health care workers, prosecutors, and other key actors. In this process, cultural norms that uphold women's rights need to be emphasized, while historical practices or views that mediate against reform of rape laws must be challenged.

A. Gender-Based Violence Before the Conflict

While statistics on rape and other forms of sexual violence in Syria pre-conflict are rare, local activists state that rape was a serious problem in the country, with at least 1,300 known cases of rape in 2009.⁷⁵ A 2010 UN study found that as many as one in four Syrian women may be victims of physical violence by their spouses.⁷⁶

Current Syrian law does not specifically prohibit domestic violence, although violence in general is illegal. Local activists report the majority of domestic violence and sexual assault cases go unreported, as victims are



Donations registration outside Za'atari camp, Jordan

traditionally reluctant to seek help outside the family due to fear of social stigma.

Some activists have reported that when women who have experienced gender-based violence attempted to report it to the police, there was little or no response to their complaints. Moreover women have reported experiencing sexual harassment, humiliation, or physical abuse when attempting to report such cases.

A major concern regarding gender-based violence is the lack of effective laws to address sexual violence, including marital rape. In 2007, the CEDAW Committee urged the government of Syria to enact, "as soon as possible," legislation ensuring that violence against women constitutes a criminal offense

⁷⁵ 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>.

⁷⁶ Id.



UN campaign to raise awareness on domestic violence

and to amend the Penal Code “without delay” ensuring that domestic violence and marital rape are criminalized and that “marriage to a victim does not exempt a rapist from punishment.”⁷⁷ Further, the Committee called for legislative reform to ensure that perpetrators of honor crimes are not exonerated or do not benefit from penalty reductions.

Under Syrian law a perpetrator of rape may avoid punishment by marrying his victim and the Penal Code’s definition of rape specifically excludes marital rape.⁷⁸ The 2012 Syrian State report submitted to CEDAW notes that a Legislative Decree⁷⁹ drafted in 2011 includes a

⁷⁷ CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶¶ 19-20, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

⁷⁸ CEDAW Comm., *Syrian Arab Republic’s Second Periodic Report, CEDAW* ¶ 26, U.N. Doc. CEDAW/C/SYR/2 (2012).

⁷⁹ Legislative Decree No. 1, (Jan. 2011) [Syrian Arab Republic], available at http://www2.ohchr.org/english/bodies/crc/docs/co/CRC_C_SYR_CO_3-4_en.doc.

provision abolishing Article 508 and imposing higher punishment on rapists.⁸⁰ The decree sets only two years of imprisonment as a minimum penalty for the crime and still allows perpetrators to escape punishment through marriage.⁸¹

In an attempt to justify the lack of legislative measures to address marital rape in the Constitution, the government stated in 2012 that: “marital rape is a speculative phenomenon which occurs only at the individual level and is not widespread” and therefore does not need to be addressed under law.⁸² The government reported that measures aimed at providing victims of gender-based violence access to justice and immediate care, such as shelters to ensure sexual violence survivors receive proper health care and psychosocial support, are “unnecessary” since most women will turn to their families, community organizations, or clerics to resolve their issues.⁸³

In 2009, the President revised Article 548 of the Penal Code, which had allowed for perpetrators found guilty of honor killings to have their sentences reduced or waived if the killing was based on a “suspicious state” concerning a female member of the family.⁸⁴

⁸⁰ CEDAW Comm., *Syrian Arab Republic’s Second Periodic Report, CEDAW* at 16, U.N. Doc. CEDAW/C/SYR/2 (2012).

⁸¹ Id.

⁸² Id.

⁸³ Id.

⁸⁴ Legislative Decree No. 37 abolishes Article No. 548 of the Penal Law and substitutes it for another that states: “He who catches his wife, sister, daughter or mother by surprise in the act of committing adultery or having unlawful sex with another and then unintentionally kills or hurts either of them can benefit from the attenuating circumstances, provided that he serves a prison term of no less than two years in the case of killing.” Legislative Decree No 37, (2009) [Syrian Arab Republic], available at <http://sgdatabse.unwomen.org/searchDetail.action?measureId=28169&baseHREF=country&baseHREFId=1263>.

Furthermore, the revised Article on honor killings only requires a minimum sentence of two years.⁸⁵

B. Access to Health Care Before the Conflict

Syria has a long history of poverty and social exclusion that bars women from accessing health care. Even before the conflict erupted in 2011, the Syrian government neglected to administer programs to protect women and girls against sexual violence or to provide victims with medical and psychological supportive services, as required by international law.

Article 22 of the Syrian Constitution guarantees access to health care services, including preventive and treatment services, in cases of emergencies, sickness, death of parents, and aging.⁸⁶ The 1966 Legislative Decree No. 111 lists the Ministry of Health's main objectives, which includes providing health care services to low-income citizens, and making health care services more accessible to all citizens.⁸⁷

In 2007, the CEDAW Committee expressed great concern about the lack of access to



Displacement camp in northern Syria

reproductive health care services for women, particularly for women in rural areas and those belonging to marginalized social classes.⁸⁸ Even when health care was available, the Committee noted that many women still required the permission of their husbands to access services.⁸⁹

Despite some work over the last three decades by the Syrian government to improve the health sector, allocated expenditure on health care remains relatively low.⁹⁰ Health outcomes for low-income women are particularly poor. Reasons for this include unequal power relationships between women and men, exposure to different forms of violence which can affect their health, children, and adolescent

⁸⁵ Id.

⁸⁶ The Constitution of the Syrian Arab Republic. Arts. 22 and 25 (Feb. 2012), available at, <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=44d8a4e84>.

⁸⁷ Legislative Decree No. 111, (1966) [Syrian Arab Republic], available at [in Arabic] <http://www.aleppodoctors.org/ar/news/details/269/%D8%A7%D9%84%D8%AA%D8%B3%D8%B9%D9%8A%D8%B1%D8%A9-%D8%A7%D9%84%D9%85%D9%82%D8%B1%D8%B1%D8%A9-%D8%B9%D9%84%D9%89-%D8%AC%D9%85%D9%8A%D8%B9-%D8%A7%D9%84%D9%85%D8%B4%D8%A7%D9%81%D9%8A-%D8%A7%D9%84%D8%AE%D8%A7%D8%B5%D8%A9>. [last checked March 6, 2014].

⁸⁸ CEDAW Comm., *Concluding Observations: Syrian Arab Republic* ¶ 29, U.N. Doc. CEDAW/C/SYR/CO/1 (2007).

⁸⁹ Id.

⁹⁰ As spending has decreased over time, (for example, falling from 4.6% of GDP in 2005 to 3.2% in 2008), it is becoming more difficult if not impossible to meet the needs of a growing population. The population of Syria is estimated to grow at approximately 2.45% annually. U.S. Department of State, <http://www.state.gov/outofdate/bgn/syria/85051.htm>.



Nobel Laureate, Shirin Ebadi speaks out for women's inclusion in the peace processes

girls' vulnerability to sexual abuse by older men and family members, cultural or traditional practices such as lack of respect for the confidentiality of women patients which deters them from seeking advice and treatment.

Victims must have access to adequate health care facilities with proper standards of privacy and confidentiality. They should have autonomous discretion and access to abortions, at minimum in cases of rape or endangerment to their health or lives and full implementation of this right.

Public education campaigns are also needed—not only aimed at deterring sexual violence but encouraging survivors to come forward, as well as trainings aimed at sensitizing relevant government officials that are likely to come into contact with victims such as police, prosecutors and judges. In the immediate term Syria should provide funding for safe houses and proper legal representation. It should create positions within judicial systems that allow for women to serve as first responders, so women feel comfortable coming forward

and discussing their experiences.

C. Discriminating against Syrian Women in Nationality

Article 3 of the Syrian Nationality Act still deems persons to be Syrian Arabs only if they are born in or outside the country to a Syrian Arab father, or more strikingly, anyone born inside the country whose paternity has not been legally established.⁹¹ In its 2007 Concluding Observations to the Syrian Arab Republic, the CEDAW Committee called on Syria to immediately modify or repeal the discriminatory provisions in the Nationality Act⁹² that deny Syrian women the right to pass on their nationality to their children.⁹³ The Legislative Decree explains that the children of a 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.”⁹⁴

The Nationality law has devastating impacts on the civil and economic rights of Syrian women and their children. For example, children of marriages between Syrian women and foreign spouses cannot inherit property, lack access to free education and have limited

⁹¹ Legislative Decree 276 - Nationality Law [Syrian Arab Republic], at 20 (Nov. 1969), *available at*, <http://www.refworld.org/docid/4d81e7b12.html>.

⁹² Legislative Decree 276 - Nationality Law [Syrian Arab Republic], at 20 (Nov. 1969), *available at*, <http://www.refworld.org/docid/4d81e7b12.html>; CEDAW Comm., *Syrian Arab Republic's Second Periodic Report, CEDAW*, ¶ 50, U.N. Doc. CEDAW/C/SYR/2.

⁹³ CEDAW Comm., *Concluding Observations: Syrian Arab Republic*, ¶¶ 17-18, U.N. Doc. CEDAW/C/SYR/CO/1.

⁹⁴ *Id.*

access to health care, social security and other benefits available to nationals, leading to instability and marginalization.⁹⁵ They have difficulty obtaining employment generally and are often barred from starting a private business because non-Syrians are ineligible to buy or lease property.⁹⁶

For over the last ten years, the women's rights movement in Syria has worked to amend the Nationality Law.⁹⁷ In 2004, the Syrian Women's League presented a memorandum to Parliament that called to change the law and remove its discriminatory provision barring women from passing on their nationality to their children.⁹⁸ A year later, the League presented a petition signed by thousands calling for the law to be amended.⁹⁹ 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.¹⁰⁰ By 2006, the League called on the head of Parliament and the Prime Minister to support the law amendment and bring Syrian law into regional compliance.¹⁰¹ By 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.¹⁰²

⁹⁵ Freedom House, *Women's Rights in the Middle East and North Africa 2010* (2010), available at <http://www.freedomhouse.org/report/women039s-rights-middle-east-and-north-africa/womens-rights-middle-east-and-north-africa-2010#.Uxj1g15Fqa0>.

⁹⁶ Id.

⁹⁷ IWHR Clinic email correspondence with Syrian Women's League leadership, Mar. 6, 2014 (on file with authors).

⁹⁸ Id.

⁹⁹ Id.

¹⁰⁰ Id.

¹⁰¹ Id.

¹⁰² 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* (May 2013).



"Geneva II" peace negotiations, Montreux, Switzerland

The campaign did succeed in turning the right of Syrian women to grant citizenship to their children into an issue of public opinion.¹⁰³ In 2011, joining in a larger coalition of civil society organizations, the Syrian Women's League presented a new bill to the new Parliament.¹⁰⁴ 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, however the bill has not yet been presented to Parliament for vote.¹⁰⁵

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 couldn't prove they had been living in Syria since 1945.¹⁰⁶ They lost all rights to claim Syrian citizenship and were effectively

¹⁰³ IWHR Clinic email correspondence with Syrian Women's League leadership, Mar. 6, 2014 (on file with authors).

¹⁰⁴ Id.

¹⁰⁵ Id.

¹⁰⁶ Human Rights Watch, SYRIA: THE SILENCED KURDS, October 1996 Vol. 8, No. 4(E), available at <http://www.hrw.org/reports/1996/Syria.htm>.

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; They are also ineligible for food subsidies or admission to public hospitals; 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.¹⁰⁷ Additionally, Kurds with “foreigner” status are also not issued passports or other travel documents, and therefore may not legally leave or return to Syria.¹⁰⁸ This issue permeates the growing concern for 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.¹⁰⁹

Lack of registration means no state services and extreme vulnerability. Stateless children have difficulty accessing health care or attending school.¹¹⁰ Living in such conditions leaves stateless individuals more vulnerable to abuse and exploitation including trafficking, forced labor, and sexual exploitation.¹¹¹

VI. Conclusions and Recommendations

To ensure that both the necessary legal framework and the enforcement mechanisms

¹⁰⁷ Id.

¹⁰⁸ Id.

¹⁰⁹ UNHCR, LACKING A NATIONALITY, SOME REFUGEES FROM SYRIA FACE ACUTE RISKS 1.

¹¹⁰ UNHCR, UNDER THE RADAR AND UNDER PROTECTED 9 (2012), *available at* <http://www.unescap.org/stat/crvs/keyresources/under-the-radar-english.pdf>. It should be noted that Noncitizen children may attend public schools but require prior permission from the Ministry of Education.

¹¹¹ Id. at 9.

to prevent and address gender-based violence are a priority in post-conflict Syria, women have to be involved now in the processes that will lead to peace and rebuilding. There is no other party that will carry these issues forward and act on behalf of women in establishing new governance priorities in Syria.

Currently, there is a real danger that women who survive the rampant gender-based violence being committed in the context of Syria’s conflict will continue to face ongoing sexual violence once the conflict ends. Any government that is committed to addressing sexual violence must act holistically to improve conditions for women, including passing measures to uphold all their human rights and to end discrimination based on gender.

This means removing impediments to women’s abilities to make autonomous decisions about their reproductive health and sexuality, by initiatives such as ending forced marriage, and criminalizing all forms of rape, including spousal rape. It means addressing and outlawing discrimination against women in property and inheritance laws, and personal status laws that govern rights for families.

These are the types of measures that will be required in Syria. United Nations Security Council Resolution 1325 can provide guidance for ensuring women’s active and meaningful participation in peace-building as well as post-conflict reconstruction, so that initiatives to address gender-based violence are fully incorporated into Syria’s governing structure.

To this end, while the conflict persists in Syria the international community should take into consideration the following recommendations:

To the United Nations Security Council:

- Refer gross violations of human rights and fundamental freedoms committed in Syria against civilians to the International Criminal Court as well as other mechanisms that would promote truth and reconciliation, social recovery and the reintegration of refugees.

To the United Nations, multilateral donor agencies and donor governments:

- Ensure that formal peace negotiations include the full participation of women-led Syrian civil society organizations at both the national and international levels and with equal rights and responsibilities to participate, negotiate, and determine the agreements;¹¹²
- Utilize information from women's groups and networks on strategies for securing localized cease fires, delivering humanitarian aid, and documenting human rights violations. Provide monitors and funding for gender-sensitive early warning mechanisms to prevent the conflict from spreading further;
- Support the Syrian Commission's recommendations, specifically 203(c) and 206(c) calling for the peace negotiations to be conducted within the framework of international law and to implement a comprehensive peace process with the full participation of all stakeholders;¹¹³

- Address gender perspectives, issues and concerns in all UN Secretary-General's reports to the Security Council and Syrian Commission's reports to the Human Rights Council; Prepare and disseminate guiding principles on the integration of these gender perspectives in peace and reconciliation processes;
- Increase support to local projects providing medical, psychological, social, and legal services tailored to survivors of sexual violence and include culturally competent counseling in a supportive environment that ensures confidentiality;
- Increase support for reproductive health services that address the specific threats faced by women and girls in conflict and post-conflict;
- Increase public education campaigns on the importance of birth and marriage registrations in order to help facilitate eligibility for refugee assistance as well as address statelessness.

¹¹² 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).

¹¹³ U.N. General Assembly, 24th Session, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, ¶ 203, 206, U.N. Doc. A/HRC/24/46 (2013).