

## SYRIA<sup>1</sup>

### OVERVIEW OF MUSLIM FAMILY LAWS & PRACTICES (Updated as at 31 May 2017)

Family Law Matter	Description				
	Legislative Framework	Case Law	Policy	Procedure	Practice
<p><b>Equality of spouses in marriage</b></p> <p><i>Is there a Constitutional provision on equality and are there exceptions? Are there specific laws that recognise marriage as a partnership of equals i.e. are family laws and/or other laws relating to marriage and family relations codified or uncoded? If codified, what are the titles of all the applicable laws? If codified, do these laws apply to all citizens irrespective of religion? If not, do these laws apply to all Muslims or are there different codified laws for different sects within Islam? If uncoded, or if codified laws do not sufficiently address a particular issue, how is the issue addressed e.g. what Muslim school of law is applicable? Do these laws explicitly</i></p>	<p>Article 33 of the Constitution:<sup>2</sup></p> <ul style="list-style-type: none"> <li>States that all Syrians are equal before the law in rights and duties without discrimination on several basis, including gender.</li> <li>Guarantees the principle of equal opportunities among Syrians.</li> </ul> <p>Article 23 of the Constitution obligates the State to provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life and also to remove the restrictions that prevent women's development and participation in building society.<sup>3</sup></p> <p>Article 20 of the Constitution:<sup>4</sup></p>	<p>For the practical application of Article 305 of the SPSL, judges and lawyers consult the Personal Status Code compiled by the Egyptian jurist, Muhamad Qadri Pasha in 1875.<sup>11</sup></p>	<p>Syria has reservations to Articles 2, 9(2), 15(4), 16(1)(c), (d), (f) and (g), 16(2) and 29 of CEDAW. Reservations were made on the various provisions of Article 16 in so far as they are incompatible with <i>Shari'ah</i>.<sup>12</sup></p> <p>The Government of Syria in its 2012 report to the CEDAW Committee asserted that:<sup>13</sup></p> <ul style="list-style-type: none"> <li>The SPSL guarantees women many rights. It is</li> </ul>		<p>According to the 2016 UNDP Human Development Report, Iraq ranked 121 on the UNDP Human Development Index and 123 on the UNDP Gender Inequality Index.<sup>14</sup></p> <p>According to a UN-FPA report, as a result of the Syrian conflict that has caused the death of many male figures who are the traditional heads of household (e.g. husband, son or brother) almost one</p>

<sup>1</sup> This Musawah project to map Muslim Family Laws globally was led by Zainah Anwar and coordinated by Lead Researcher Sharmila Sharma, with substantive support from Salma Waheedi and students at the International Human Rights Clinic, Harvard Law School. For this Syria country table, we would also like to thank Katherine Gonzalez from Harvard Law School, and Syrian family law experts/advocates who wish to remain anonymous, for their inputs in its preparation.

<sup>2</sup> Article 33 of Syria's Constitution (2012), [https://www.constituteproject.org/constitution/Syria\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en)

<sup>3</sup> Article 23 of Syria's Constitution (2012), [https://www.constituteproject.org/constitution/Syria\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en)

<sup>4</sup> Article 20 of Syria's Constitution (2012), [https://www.constituteproject.org/constitution/Syria\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en)

<p><i>state gender-stereotypical roles between husbands and wives e.g. the husband is the head of the household or the wife is the primary caregiver?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 54-55 GR29</p>	<ul style="list-style-type: none"> <li>• Declares the family as the nucleus of society and obligates the law to maintain its existence and strengthen its ties;</li> <li>• Obligates the State to protect and encourage marriage and work on removing material and social obstacles that hinder it.</li> </ul> <p>Matters regarding marriage and family relations of the Muslim majority population in Syria are mainly governed by the Syrian Personal Status Law No. 59/1953 (SPSL).<sup>5</sup> In the absence of codified laws that sufficiently address a particular matter of personal status of Muslims, based on Article 305 of the SPSL, generally, the rules of Hanafi jurisprudence (<i>fiqh</i>) apply.<sup>6</sup></p>		<p>necessary to increase awareness of the rights in order to enhance their ability to exercise the rights. The Syrian government further emphasised that;</p> <ul style="list-style-type: none"> <li>• Some articles of the SPSL are derived from religious texts which are quite difficult to amend in a conservative, largely religious society;</li> <li>• While international conventions supersede national laws, they do not su-</li> </ul>	<p>in every three households are headed by women.<sup>15</sup></p>
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<sup>11</sup> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 56, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>12</sup> United Nations Treaty Collection Website, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en)

<sup>13</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 65, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>14</sup> UNDP, "Human Development Report 2016", Table 5, pp. 214-217, [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf)

<sup>5</sup> Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>6</sup> Article 305 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Lynn Welchman, "Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy", (Amsterdam: Amsterdam University Press, 2007), Endnote 1 (Chapter 4), pp. 45, 195, <https://goo.gl/AeQSDU>

<sup>15</sup> UNFPA, "Syrian women-headed households: hoping to survive and move on", 2013, <http://reliefweb.int/sites/reliefweb.int/files/resources/UNFPA%20Syrian%20women-%20headed%20households,%20hoping%20to%20survive%20and%20move%20on.pdf>

	<p>The SPSL applies to all Syrians regardless of religion. However, certain matters (e.g. marriage and divorce) relating to the Christian, Jewish and Druze communities are excluded from applications of the SPSL in accordance with Articles 306-308.<sup>7</sup> These matters are governed by the communities own laws and ecclesiastical courts.<sup>8</sup></p> <p>Despite the equality guarantees under the Constitution, the SPSL provides for a marital framework based on 'reciprocal' or 'complementary' rights (as opposed to 'equal' rights) between the two spouses, whereby in return for maintenance and protection from her husband, a wife is expected to obey him.<sup>9</sup> Thus:<sup>10</sup></p> <ul style="list-style-type: none"> <li>• Article 1 of the SPSL defines marriage as a lawful contract between a man and a woman,</li> </ul>		<p>persede divine law and what it stipulates.</p>		
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<sup>7</sup> Article 305 of the Personal Status Law (1953), <https://docs.google.com/file/d/0B8ITLJi5y4TKcXF3MFJnUTFwUmc/view>; Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 81, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>8</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 81, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 2-3, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>9</sup> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 135-136,

[https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>10</sup> Article 1, 5, 72, 74 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 86, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>; Lynn Welchman, "Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy", (Amsterdam: Amsterdam University Press, 2007), p. 178, <https://goo.gl/AeQSDU>

	<p>the purpose of which is to establish a shared union and to procreate;</p> <ul style="list-style-type: none"> <li>• Article 5 states that a marriage is a contract between a man and a woman “that gives rise to rights and obligations on the part of each towards the other”;</li> <li>• Article 72 provides maintenance for the wife shall be obligatory on the husband from the time of the valid contract, even if she is living in her family’s house, unless the husband has asked her to move and she refused without right;</li> <li>• Article 74 stipulates that if a wife is disobedient (<i>nashiza</i>) to her husband, she loses her right to maintenance as long as she is disobedient.</li> </ul>				
<p><b>Minimum and equal legal age for marriage</b></p> <p><i>Is there a minimum age of marriage? Are there exceptions to the minimum age (e.g. min. age at 18,</i></p>	<p>The minimum legal age for marriage is 17 for female and 18 for males as per Article 16 of the SPSL.<sup>16</sup> However, Article 18(1) provides that a judge may permit girls aged 13 and above and boys</p>		<p>Syria has a reservation to CEDAW Article 16(2) because the provision is viewed as incompatible with</p>	<p>Marriage contracts are concluded before a competent officer who has the right to conduct the marriage, the</p>	<p>According to UNICEF’s State of the World’s Children 2016 report, 13% of women aged 20- 24 in Iraq were first</p>

<sup>16</sup> Article 16 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, “Family law in Syria: a plurality of laws, norms and legal practices”, (Netherlands: Leiden University, 2013), pp. 249-250, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20); Lynn Welchman, “Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy”, (Amsterdam: Amsterdam University Press, 2007), p. 165, <https://goo.gl/AeQSDU>

<p><i>with exceptions to 16)? Is there an absolute minimum age without exceptions? Is there equality in the minimum age of marriage? Does the minimum age of marriage match the age of majority? Is there a minimum age verification process before the marriage is concluded?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(2) Paras. 36-39 GR21</p>	<p>aged 15 and above to marry if he deems the petition to be since and they are physically capable.<sup>17</sup></p> <p>Article 18(2) stipulates that if the legal guardian of the girl bride is her father or grandfather, the couple will also need his consent in marriage.<sup>18</sup></p> <p>Article 19 states that a judge may withhold his permission for marriage if he finds an incompatibility in age between the prospective bride and groom and if he can see no benefit in the marriage.<sup>19</sup></p>		<p><i>Shari'ah.</i><sup>20</sup></p> <p>The Syrian Government acknowledged that Article 18 of SPSL provides an avenue for guardians to give their girls in marriage at an early age, particularly in rural areas.<sup>21</sup></p> <p>In its 2012 report to the CEDAW Committee the Syrian government maintains that since “climate and type of nutrition accelerates puberty,” and “given the prohibition on sexual relations outside marriage, it has at times been necessary to grant permission for a young woman to be married in an exceptional situation.”<sup>22</sup></p>	<p>competent officer being a local area judge. Prior to marriage, the parties must submit a request to the judge, and provide documents that prove each party’s civil status and age, for verification.<sup>23</sup></p>	<p>married by 18 and 3% by 15.<sup>24</sup></p> <p>According to the Syrian government, the average age for first marriage is 26 for females and 29 for males based on the 2009 Family Health Survey.<sup>25</sup></p> <p>According to Girls Not Brides and others, since the Syrian conflict began, child marriages are increasing “at an alarming rate”.<sup>26</sup></p> <ul style="list-style-type: none"> <li>• In 2011, 12% of registered marriages involved a girl below 1; 18% in 2012; 25% in 2013 and just under 32% in the</li> </ul>
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<sup>17</sup> Article 18(1) of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>18</sup> Article 18 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>19</sup> Article 19 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>20</sup> United Nations Treaty Collection Website, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&clang=en)

<sup>21</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 105, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>22</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 378(a), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

					<p>first quarter of 2014;</p> <ul style="list-style-type: none"> <li>• More Syrian girls have been married below 17. Parents marry their young daughters because they believe their daughters will be protected and taken care of in an increasingly unstable and impoverished situation;</li> <li>• Syrian girls aged 15-17 are marrying much older men: 16% married men 15 years older than themselves; 32% married men 10</li> </ul>
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23 Article 40-43 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>  
 24 UNICEF, "The State of the World's Children 2016", Table 9, pp. 150-153, [https://www.unicef.org/publications/files/UNICEF\\_SOWC\\_2016.pdf](https://www.unicef.org/publications/files/UNICEF_SOWC_2016.pdf)  
 25 Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 378(a), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>  
 26 Girls Not Bride, "Child marriage and the Syrian conflict: 7 things you need to know", 2016, <http://www.girlsnotbrides.org/child-marriage-and-the-syrian-conflict-7-things-you-need-to-know/>; Katherine Butler-Dines, "Child marriage & stateless children: Costs of the Syrian Crisis", *Georgetown Institute for Women, Peace and Security*, 2 March 2017, Save the Children, "Too Young To Wed: The growing problem of children marriage among Syrians in Jordan", 2014, [http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/TOO\\_YOUNG\\_TO\\_WED\\_REPORT\\_0714.PDF](http://www.savethechildren.org/atf/cf/%7B9def2ebe-10ae-432c-9bd0-df91d2eba74a%7D/TOO_YOUNG_TO_WED_REPORT_0714.PDF); Helen Nianias, "The young refugee girls who are being pushed into marriage and violent relationships", *Guardian*, 6 November 2016, <https://www.theguardian.com/global-development-professionals-network/2016/nov/06/the-young-refugee-girls-who-are-being-pushed-into-marriage-and-violent-relationships>

					<p>to 14 years older; and 37% married men 5 to 9 years older;</p> <ul style="list-style-type: none"> <li>• Child brides face a wide range of social and health consequences, lack of education as well as higher rates of maternal mortality and violence;</li> <li>• The practice and impact of child marriage on Syrian girls is magnified among the Syrian refugee communities in the region e.g. Jordan, Lebanon.</li> </ul>
<p><b>Women's consent to marriage</b></p> <p><i>Is a marriage valid without the woman's consent? Is the practice of forcing women to marry against their will (ijbar) prohibited? Is there a standard marriage contract? If so, what are its broad</i></p>	<p>Regardless of their age, both prospective brides and grooms must consent to the marriage.</p> <p>Article 5 of the SPSL provides that a marriage contract requires acceptance of both parties.<sup>27</sup></p>		<p>The Government of Syria in its 2012 report to the CEDAW Committee acknowledged the difficulty it faces in enforcing marriage registration,</p>	<p>The presence of two male witnesses (or one male and two females) is required to testify that the marriage was consented to between the</p>	<p>According to the Tahirih Justice Centre, ISIS fighters in Raqqa, northern Aleppo, and some border areas have reportedly subjected women and girls to</p>

<sup>27</sup> Article 5 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<p><i>provisions and is there anything particular in the contract that ought to be highlighted on the basis that it advances women's rights or otherwise? Is it mandatory to register a marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(b) Paras. 15-16 GR21 Paras. 25-26, 33-34 GR29</p>	<p>Article 11(1) states that both parties have to hear and understand the offer and acceptance, and need to understand what the purpose of the contract is, namely, marriage.<sup>28</sup></p> <p>The mandatory registration of marriages is provided for in Article 40(1) of the SPSL.<sup>29</sup></p> <p>Article 31 of the Civil Status Law provides that in order for marriage to be considered legal, the marriage certificate must be with the Department of Civil Affairs in the governorate in which the marriage occurred.<sup>30</sup></p> <p>Article 67 of the Civil Status Law provides for a fine of 500 Syrian pounds or imprisonment of 10 days for those who fail to register a marriage.<sup>31</sup></p> <p>Non-registration of a marriage does not necessarily invalidate the marriage. Article 40(2) of the SPSL provides that an unregistered marriage can be registered once the required legal</p>		<p>especially of customary marriages performed outside of court. It cites a number of obstacles, including negative customs and traditions, insufficiency of training to husbands and wives regarding their rights, and the lack of family guidance centres.<sup>33</sup></p>	<p>husband and the wife.<sup>34</sup></p> <p>All marriages need to be registered in the court's registry, after which the court sends a copy of the marriage certificate within 10 days to the Department of Civil Affairs.<sup>35</sup> The procedure for registration of marriages in Syria is detailed in the website of the Norwegian Refugee Council and Institute on Statelessness and Inclusion.<sup>36</sup></p> <p>While unregistered or customary marriages (<i>urfi</i>) do not necessarily invalidate a marriage, it is important to officially register marriages. Women and children are placed in</p>	<p>forced marriages.<sup>38</sup></p> <p>According to academic research, while the law requires consent of both parties to the marriage contract, a minor is not truly able to object to it because the guardian contracts the marriage in the cases of minors. This is also one of the reasons it is difficult to enforce the minimum age for marriage.<sup>39</sup></p> <p>According to a media reports:<sup>40</sup></p> <ul style="list-style-type: none"> <li>• In order to obtain a marriage certificate, the husband must be present at the civil office (which is difficult since many young Syrian men are</li> </ul>
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<sup>28</sup> Article 11(1) of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>29</sup> Article 40(1) of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>30</sup> Article 31 of the Civil Status Law (2007), <http://ashrfmmshrf.com/?p=199>

<sup>31</sup> Article 67 of the Civil Status Law (2007), <http://ashrfmmshrf.com/?p=199>

	<p>procedures are met. If, however, a child is born or a pregnancy is apparent, the marriage will be recognised without the required produces.<sup>32</sup></p>			<p>vulnerable situations in unregistered marriages. A marriage is not considered legal until recorded in the civil registers and children of an unregistered married cannot be registered unless the marriage of the parents is first registered.<sup>37</sup></p>	<p>abroad, in hiding, or too scared that they will be arrested if they enter the capital). The process for obtaining a marriage certificate, which costs 25 Syrian pounds, has become very challenging, especially in opposition-controlled areas, where civil offices have been turned into religious institutions. In regime-controlled areas, marriage</p>
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<sup>33</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 379, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>34</sup> Article 12 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>35</sup> Articles 40-45 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>36</sup> Norwegian Refugee Council and Institute on Statelessness and Inclusion, "Civil Registration Procedures in Syria", <http://www.syrianationality.org/nationality-documentation-and-statelessness-in-syria/documents-issued-in-syria>

<sup>38</sup> Tahiri Justice Centre, "Syria" *Forced marriages overseas*, <http://preventforcedmarriage.org/forced-marriage-overseas-syria/>

<sup>39</sup> Sameena Nazir and Leigh Tomppert (eds), "Women's Rights in the Middle East and North Africa: Citizenship and Justice, (USA: Rowman and Littlefield, 2005), p. 281, [https://books.google.com/books/about/Women\\_s\\_Rights\\_in\\_the\\_Middle\\_East\\_and\\_No.html?id=5spje12\\_is4C](https://books.google.com/books/about/Women_s_Rights_in_the_Middle_East_and_No.html?id=5spje12_is4C)

<sup>40</sup> Mohammad Qara Ali, "Syria, Documenting Births, Marriages, and Deaths", *Institute for War and Peace Reporting*, 7 October 2016,

<http://www.refworld.org/docid/57fe3a9ba88.html>; Kamal Srouji, "Marriage in Syria: Difficulties, Brides and Lack of Recognition," *News Deeply*, 4 August 2015, <https://www.newsdeeply.com/syria/articles/2015/08/04/marriage-in-syria-difficulties-bribes-and-lack-of-recognition>

<sup>32</sup> Articles 40(2) of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 252-253,

[https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>37</sup> Articles 28, 30-31 of the Civil Status Law (2007), <http://ashrfmmshrf.com/?p=199>

					<p>certificates are difficult to obtain outside of bribes;</p> <ul style="list-style-type: none"> <li>If a marriage is not registered, it makes it extremely difficult for a family to access aid from most local relief organisations in Syria.</li> </ul>
<p><b>Women's capacity to enter into marriage</b></p> <p><i>Is consent of a marital guardian (wali) required? If so, can a woman choose her own wali? Can a woman go before a court or other competent authority to seek permission to marry if her wali refuses to consent to her marriage? Can a woman negotiate her marital rights prior to marriage and can these rights be changed during marriage? If so, who can change these rights and under what circumstances e.g. mutual</i></p>	<p>Regardless of her age, a prospective bride requires the consent of a marital guardian (<i>wali</i>) to marry. The guardian must be a Muslim and a male relative of the prospective bride (father, grandfather, etc.).<sup>41</sup></p> <p>A judge can act as guardian in the absence of male relatives.<sup>42</sup> In addition, a judge may permit the marriage if it is determined that the guardian's objections are ill-considered, provided the betrothed parties are of equal social status (<i>kafaa</i>).<sup>43</sup></p>	<p>In 1956, the Court of Cassation held that the exact interpretation of the concept <i>kafaa</i> is to be determined at the discretion of the judge. Nevertheless, generally, it would appear that currently, the key elements of <i>kafaa</i> in marriage are parity in faith (<i>iman</i>) and financial means or wealth (<i>yasar</i> or</p>			

<sup>41</sup> Articles 20-22 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 133-134, 250,

<sup>42</sup> Articles 23-24 of the Personal Status Law (1953), [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>43</sup> Article 20 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 250,

<p><i>consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(a), 16(1)(b) Paras. 15-16 GR21 Para. 34 GR29</p>	<p>Article 27 of the SPSL provides for the validity of the marriage of an adult woman without the consent of her <i>wali</i> provided that the husband is compatible. If the husband is not well-suited for her, a <i>wali</i> may request for the annulment of the marriage contract.<sup>44</sup></p> <p>Pursuant to Article 14 of the SPSL, both spouses may stipulate any condition in their marriage contract so long as they do not contradict <i>Shari'ah</i>, do not prejudice a husband's right to conduct his personal business or negatively impact the rights of others. A wife may seek for divorce if her husband fails to fulfil the conditions he had agreed to in the marriage contract.<sup>45</sup></p>	<p><i>infaq</i>) between the two prospective parties. A groom's descent (<i>nasab</i>), his occupation or difference in social class is no longer relevant to the court.<sup>46</sup></p>			
<p><b>Polygamous marriages</b></p> <p><i>Does the law prohibit polygamy or impose strict conditions on such practice? Is the permission of the</i></p>	<p>A Muslim man may marry up to four wives at one time.</p> <p>Based on Article 17 of the SPSL, a man may not marry more than</p>		<p>The Government of Syria in its 2005 report to the CEDAW Committee said that "it should</p>	<p>A woman can stipulate in the marriage contract that if her husband takes on another</p>	<p>According to media reports, the ongoing war in Syria may be contributing to an increase in</p>

[https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>44</sup> Article 27 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>45</sup> Article 14 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Lynn Welchman, "Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy", (Amsterdam: Amsterdam University Press, 2007), p. 183, <https://goo.gl/AeQSDU>

<sup>46</sup> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 134-135, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<p><i>court required for a polygamous marriage? Is the permission of an existing wife required for a polygamous marriage? Is it necessary to inform an existing wife of the polygamous marriage? Are temporary marriages such as traveler's marriages (misyar) recognised? Is it necessary to register a polygamous marriage? Can a woman stipulate in the marriage contract that her intended husband cannot enter into a polygamous marriage?</i></p> <p><u>Applicable CEDAW Provision</u> Para. 14 GR21 Para. 34 GR29</p>	<p>one woman except with the authorisation of a judge. A judge may only authorise the polygamous marriage if: (i) there is legitimate reasons to do so; and (ii) the husband has the financial capacity to support all wives.<sup>47</sup></p> <p>Article 68 of the SPSL states that wives must be treated equally in terms of housing.<sup>48</sup></p> <p>Article 67 of the SPSL prohibits a man from housing multiple wives in the same home without their consent.<sup>49</sup></p> <p>Articles 52 and 63 of the Personal Status Law address temporary marriages, calling it an "invalid contract" (<i>fasid</i>), but nonetheless stating that in such a marriage, "the status of the husband shall be taken into account, with the proviso that the dower shall be not more than half that of the woman's peers."<sup>50</sup></p>		<p>be pointed out that the system of polygamy was not established by Islam; on the contrary, Islam very narrowly defines and restricts polygamy to."<sup>51</sup></p>	<p>wife, she has the right to petition a court for divorce.<sup>52</sup></p>	<p>polygamous marriages. As a greater number of men continue to be killed in Syria, women are making the decision to become someone's second wife. According to recent data, polygamous relationships accounted for 30% of marriages registered in Damascus in 2015, up from just 5% in 2010.<sup>53</sup></p> <p>According to the Tahir Justice Centre, the practice of temporary marriage occurs among Shia Muslims. Based on information collected</p>
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<sup>47</sup> Article 17 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Lynn Welchman, "Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy", (Amsterdam: Amsterdam University Press, 2007), pp. 86, 170, <https://goo.gl/AeQSDU>

<sup>48</sup> Article 68 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>49</sup> Article 67 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>50</sup> Articles 52, 63 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>51</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 88, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>52</sup> Article 14 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>53</sup> Omer Karasapan, "The war and Syria's families", *Future Development*, 22 March 2017, <https://www.brookings.edu/blog/future-development/2017/03/22/the-war-and-syrias-families/>; AFP, "Polygamy and divorce on the rise in war-torn Syria", *The Economic Times*, 12 September 2016, <http://economictimes.indiatimes.com/news/international/world-news/polygamy-and-divorce-on-the-rise-in-war-torn-syria/articleshow/54285775.cms>

					by the UN and the Jordanian government, 500 under-aged Syrian girls were married in temporary marriages in 2012. <sup>54</sup>
<p><b>Divorce rights</b></p> <p><i>Is there equal right to divorce between women and men? Can the husband divorce without reason and without having to go to court? What are the main forms of divorce? Can all forms of divorce be sought only through the courts? Are the grounds for divorce the same for the husband and wife? Is unilateral divorce by repudiation (talāq) prohibited? If unilateral divorce is not prohibited, what is the procedure i.e. is the presence of the spouse to be divorced required, are witnesses required, does the spouse seeking divorce need to go to court, is the divorced spouse informed of the divorce? Is the unilateral right to</i></p>	<p>The SPSL provides for three different mechanisms for divorce: (i) unilateral repudiation (<i>talaq</i>); (ii) judicial divorce; (iii) redemptive divorce (<i>mukhala'a</i> or <i>khul'</i>).<sup>55</sup></p> <p>A husband may unilaterally repudiate a marriage without much restrictions.<sup>56</sup></p> <p>A husband may delegate his unilateral right to divorce to his wife (<i>isma</i>) through a stipulation in the marriage contract, thus permitting her to pronounce <i>talaq</i> upon herself (<i>talāq-i-tafwid</i>).<sup>57</sup></p> <p>Valid grounds for seeking a judicial divorce by a wife include a husband's: (i) impotence or insanity; (ii) long-term absence or</p>				<p>According to academic research, while the wife's consent to <i>mukhala'a</i> must be voluntary, in practice women are sometimes pressured into seeking a <i>mukhala'a</i> divorce. It offers a husband a cheap way of obtaining a divorce, as he can evade paying post-divorce maintenance and any remaining dower costs normally associated with <i>talaq</i>.<sup>62</sup></p>

<sup>54</sup> Tahirih Justice Centre, "Syria", *Forced marriages overseas*, <http://preventforcedmarriage.org/forced-marriage-overseas-syria/>

<sup>55</sup> Articles 87-117 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>56</sup> Article 85-94 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 138, 257,

[https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>57</sup> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 257,

[https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<p><i>divorce delegated to the wife? If so, is it by law or through the marriage contract? Is it mandatory to register a divorce?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(c) Paras. 17-18 GR21 Paras. 34, 39-40 GR29</p>	<p>imprisonment; and (iii) failure to provide maintenance. In addition, both spouses may seek divorce on the basis of discord between the spouses.<sup>58</sup></p> <p>In the case of a divorce petition based on discord, the judge will seek to reconcile the spouses. If reconciliation is not possible and the husband or wife persists with the claim, the judge must then appoint two arbitrators (ideally one from each family). The arbitrators are required to conduct a series of reconciliation sessions. If they fail to achieve reconciliation, the arbitrators will submit a report with the reason for the disagreement, an opinion on the level of culpability ascribed to either the husband or the wife or both in order to determine the financial rights of each party and suggestions for how to dissolve the marriage. The marriage may be dissolved either by a simple <i>talaq</i> or where the wife appears primarily to be blamed, on the basis of some monetary amount that she must provide the husband.<sup>59</sup></p>				
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<sup>62</sup> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 189-190, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>58</sup> Articles 105-112 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>59</sup> Articles 112-115 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal

	<p>A wife may seek redemptive divorce (<i>mukhala'a</i> or <i>khul'</i>), whereby she is granted a divorce in exchange for a mutually-agreed compensation to be paid to the husband. A <i>mukhala'a</i> divorce requires the consent of both parties.<sup>60</sup></p> <p>The mandatory registration of a divorce is provided for in Articles 30-31 of the Civil Status Law.<sup>61</sup></p>				
<p><b>Women's financial rights after divorce</b></p> <p><i>Is there a legal concept of matrimonial assets? Is there equal division of marital property upon dissolution of the marriage? Is the woman's role as wife and mother recognised as contribution to the acquisition of assets? What spousal maintenance are available to the wife after a divorce? Is she entitled to maintenance during the waiting period after the</i></p>	<p>Generally, upon divorce, a woman may be entitled to: (i) financial maintenance during the waiting period after the divorce (<i>iddah</i>); (ii) compensation if the former husband divorced her unreasonably. There is no legal concept of matrimonial assets.</p> <p>Articles 83 and 84 of the SPSL provide that a woman may be entitled to financial maintenance during the <i>iddah</i> period. A judge may rule for financial maintenance.</p>			<p>Both spouses may agree on a formula for joint ownership of property after marriage, and any agreement between them is binding on both of them.<sup>66</sup></p>	<p>According to academic research and information on the ground, women are sometimes forced to give up custody of their children for economic reasons because:<sup>67</sup></p> <ul style="list-style-type: none"> <li>• Following a divorce, the woman cannot remain in the family house</li> </ul>

practices", (Netherlands: Leiden University, 2013), p. 260,

<sup>60</sup> [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)  
Articles 95-104 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), pp. 139-140,

<sup>61</sup> [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)  
Articles 30-31 of the Civil Status Law (2007), <http://ashrfmmshrf.com/?p=199>

<p><i>divorce (iddah)? Is she entitled to a consolatory gift or compensation upon divorce (mut'ah)? Who is responsible for the financial maintenance of children following a divorce? Can the couple agree to the division of assets acquired during marriage in the marriage contract? Can this stipulation be amended? If so, by who and on what basis e.g. mutual consent?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(c), 16(1)(h) Paras. 30-33 GR21 Paras. 34-35, 43-48 GR29</p>	<p>nance for a maximum period of nine months.<sup>63</sup></p> <p>Article 117 of the SPSL provides that if a man divorces his wife and it appears to the judge that the husband was arbitrary in divorcing her and the wife will suffer distress and poverty from the divorce, the judge may award her compensation (<i>ta'wid</i>) against the former husband based on the extent of arbitrariness to be determined on a case-by-case basis. The total compensation cannot exceed three years' worth of maintenance. The judge may require the payment to be made in a lump sum or in monthly instalments.<sup>64</sup></p> <p>Following a divorce, the father is responsible for the financial maintenance of his children according to his means.<sup>65</sup> However, the law does not guarantee housing for the custodial mother and does not</p>				<p>when it is registered to the husband, even if she has full custody of the children;</p> <ul style="list-style-type: none"> <li>• It can take a very long time to make the husband pay even the small sum of court-ordered maintenance for the wife and children when they are with the mother.</li> </ul> <p>Therefore, it is important for a mother who seeks divorce to know that she can fall back on her family members for financial support, if she intends to take care of the children.<sup>68</sup></p>
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<sup>66</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 377(h), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>67</sup> Information obtained from Syrian expert, February 2017

<sup>63</sup> Articles 83-84, 125 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>64</sup> Article 117 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Lynn Welchman, "Women and Muslim Family Laws in Arab States: A Comparative Overview of Textual Development and Advocacy", (Amsterdam: Amsterdam University Press, 2007), p. 187, <https://goo.gl/AeQSDU>

<sup>65</sup> Article 142 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>68</sup> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 142, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

	guarantee the right to remain in the family home.				
<p><b>Custody of Children</b></p> <p><i>Do parents have equal rights over the custody of their children? If no, who has priority right over the custody of the child? Is custody decided based on the best interest of the child? Do mothers automatically lose custody upon remarriage or if she is deemed disobedient or when the child reaches a designated age when custody goes to father?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A mother (followed by the maternal grandmother, paternal grandmother, etc.) has priority right over the custody of her children until her daughter reaches 15 and her son reaches 13.<sup>69</sup> Thereafter, custody reverts to the father.<sup>70</sup></p> <p>A mother does not lose custody if she goes out to work as long as she is able to provide good care.<sup>71</sup></p> <p>A mother loses custody over her children if she remarries and her husband is not a close blood relative of the child.<sup>72</sup> She also risk losing custody of the child if she is deemed disobedient and her child is over 5. In such instances a judge may award custody to either spouse, taking into account the interest of the child.<sup>73</sup></p> <p>Following a divorce, a custodian</p>				<p>According to information on the ground as well as media reports, many women in a bad marriage are hesitant to seek a divorce for fear of losing custody over their children due to economic reasons or as a result of the court awarding custody of the children to the father, which reportedly happen frequently.<sup>75</sup></p>

<sup>69</sup> Articles 139, 146 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36> as amended by Article 1 of Law No. 18/2003, <http://www.parliament.gov.sy/arabic/index.php?node=5547&nid=15153&First=0&Last=4&CurrentPage=0&mid=&refBack=>

<sup>70</sup> Esther van Eijk, "Family law in Syria: a plurality of laws, norms and legal practices", (Netherlands: Leiden University, 2013), p. 142, [https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift\\_EvanEijk\\_26July%202013%20corr.pdf?sequence=20](https://openaccess.leidenuniv.nl/bitstream/handle/1887/21765/Binnenwerk%20Proefschrift_EvanEijk_26July%202013%20corr.pdf?sequence=20)

<sup>71</sup> Article 139 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>72</sup> Article 138 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>73</sup> Article 145 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

	<p>mother may travel without the child's father's permission: (i) to her own place of origin; (ii) to the place where the marriage took place; or (iii) within Syria to a district where she lives or works, provided that one of her close relatives (<i>mahram</i>) lives there.<sup>74</sup></p>				
<p><b>Guardianship of Children</b></p> <p><i>Do parents have equal rights over the guardianship of their children? If no, who has priority right over the guardianship of the child? Is guardianship decided based on the best interest of the child?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(d), 16(1)(f) Paras. 19-20 GR21</p>	<p>A father has priority right over the guardianship of his children, followed by the paternal grandfather.<sup>76</sup></p> <p>Article 173 of the SPSL mandates a judge to assign some of the tasks of the guardian, with respect to his financial assets, to the woman who has custody of a minor, if after hearing statements from the guardian, the judge determines that the minor's interests are at risk and a transfer is required to advance the interests of the minor.<sup>77</sup></p> <p>A father must obtain the consent of custodian mother in order to travel with the child.<sup>78</sup></p>				

<sup>75</sup> Information obtained from Syrian expert, February 2017; Mariam Nihal, "Women Fear losing Custody if They File for Divorce," *Arab News*, 17 December 2011, <http://www.arabnews.com/node/401246>

<sup>74</sup> Article 148 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>76</sup> Article 170 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>77</sup> Article 173 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>78</sup> Articles 149-150 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<p><b>Family Planning</b></p> <p><i>Do women require the consent of the husband to practise family planning, including abortions and sterilisation in law or in practice?</i></p> <p><u>Applicable CEDAW Provision</u> Articles 16(1)(e), 12 Paras. 21-23 GR21</p>	<p>Abortion is strictly prohibited by law, except when it is necessary to save the pregnant woman's life.<sup>79</sup></p>		<p>The Government of Syria in its 2012 report to the CEDAW Committee said that that family planning decisions are taken jointly by married couples in Syria. A couple would agree on the number and spacing of children and birth control. The Syrian government emphasised that "in Syrian society, the institution of the family and life itself is a consensual partnership. It is not desirable for one partner to act separately or to dominate or control the other partner."<sup>80</sup></p>		<p>According to World Bank data, the total fertility rate decreased from 7.5 children per woman in 1960 to 2.9 in 2015.<sup>81</sup></p> <p>According to the UN Population Division's 2015 Trends in Contraceptive Use Worldwide:<sup>82</sup></p> <ul style="list-style-type: none"> <li>• 58% of married women aged 15-49 are using a method of contraception, with 41% of women using a modern method;</li> <li>• 15% of married women aged 15-49 have an unmet need for family planning services;</li> </ul>
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<sup>79</sup> Article 527 of the Penal Code (1949), [http://www.moj.gov.sy/index.php?option=com\\_content&view=article&id=11%3A2013-10-01-20-45-36&catid=3%3Acriminalgroup&Itemid=6](http://www.moj.gov.sy/index.php?option=com_content&view=article&id=11%3A2013-10-01-20-45-36&catid=3%3Acriminalgroup&Itemid=6); Centre for Reproductive Rights, "The World's Abortion Laws", 2014, <https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/AbortionMap2014.PDF>

<sup>80</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 61, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>81</sup> The World Bank, "Fertility rates, total (births per woman)", <http://data.worldbank.org/indicator/SP.DYN.TFRT.IN>

<sup>82</sup> United Nations Population Division, "Trends in Contraceptive Use Worldwide 2015", Annex Table 1, pp. 36-42, <http://www.un.org/en/development/desa/population/publications/pdf/family/trendsContraceptiveUse2015Report.pdf>

					<p>and</p> <ul style="list-style-type: none"> <li>• 57% of marriage women aged 15-49 had their demands for family planning satisfied by modern methods of contraception.</li> </ul> <p>According to information on the ground, although contraceptives are free from government clinics, they are not given without the husband's approval.<sup>83</sup></p>
<p><b>Personal rights of spouses</b></p> <p><i>Does a woman need the consent of her spouse or guardian to work, choose a profession, leave the house, travel, drive, receive various health services, study, etc. on her behalf? Does a woman have the right to retain her birth name upon marriage or to choose her family name? Can a woman pro-</i></p>	<p>Article 33 of Constitution states that freedom shall be a sacred right and obligates the State to guarantee the personal freedom of citizens.<sup>84</sup></p> <p>Article 38 of the Constitution guarantees the freedom of movement of all Syrians.<sup>85</sup></p> <p>Article 40 of the Constitution</p>		<p>Syria has a reservation to Article 16(g) of CEDAW.<sup>92</sup></p> <p>The Government of Syrian in its 2005 report to the CEADW Committee informed that the Minister of the Interior issued a</p>	<p>The wife may stipulate in the marriage contract that she has the right to work, travel, study, etc. If the husband breaches a stated condition of the marriage contract, the woman has the right to petition a</p>	<p>According to World Bank data, the female labour force participation decreased from 18% in 1990 to 12% in 2016.<sup>96</sup> During the same period the male labour force participation decreased from 81%</p>

<sup>83</sup> Information obtained from Syrian expert, February 2017

<sup>84</sup> Article 33 of Syria's Constitution (2012), [https://www.constituteproject.org/constitution/Syria\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en)

<sup>85</sup> Article 38 of Syria's Constitution (2012), [https://www.constituteproject.org/constitution/Syria\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en)

<p><i>protect her personal rights through her marriage contract?</i></p> <p><u>Applicable CEDAW Provision</u> Article 16(1)(g) Para. 24 GR21 Para. 34 GR29</p>	<p>declares work to be right and duty for every citizen.<sup>86</sup></p> <p>Despite the constitutional provisions stating otherwise, the SPSL potentially restricts the personal rights of a married woman as a result of the maintenance-for-obedience legal framework provided for under the law. Thus:</p> <ul style="list-style-type: none"> <li>• A wife loses her financial maintenance if she were deemed to be disobedient;<sup>87</sup></li> <li>• A wife is obligated to live together with her husband;<sup>88</sup></li> <li>• A wife is obligated to travel with her husband, unless she states otherwise explicitly as a condition in the marriage contract or if a judge rules that she had an excuse;<sup>89</sup></li> <li>• A wife's right to maintenance lapses if she works outside the</li> </ul>		<p>2002 directive stating that women are entitled to apply for a passport or its renewal, without her husband's consent.<sup>93</sup></p>	<p>court for divorce<sup>94</sup></p> <p>Married women in Syria retain their family name. The man's family name is passed to the children.<sup>95</sup></p>	<p>to 71%.<sup>97</sup></p> <p>According to the 2016 UNDP Human Development Report:<sup>98</sup></p> <ul style="list-style-type: none"> <li>• 35% of women over 25 have at least some secondary education as compared to 43% of men of the same age group;</li> <li>• 96% of females aged 15-24 are able to read and write a short simple sentence as compared to 97% of males in the same age group;</li> <li>• 32% of women are satisfied with their freedom of choice as com-</li> </ul>
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<sup>92</sup> United Nations Treaty Collection Website, <https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&msgid=IV-8&chapter=4&clang=en>

<sup>96</sup> The World Bank, "Labour force participation rate, female (% of female population ages 15+) (modelled ILO estimate)", <http://data.worldbank.org/indicator/SL.TLF.CACT.FE.ZS>

<sup>86</sup> Article 40 of Syria's Constitution (2012), [https://www.constituteproject.org/constitution/Syria\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en)

<sup>87</sup> Article 74 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>88</sup> Article 66 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>89</sup> Article 70 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

	<p>marital home without the permission of her husband;<sup>90</sup></p> <ul style="list-style-type: none"> <li>A wife cannot leave the marital home or deny her husband entry without a legitimate excuse.<sup>91</sup></li> </ul>				pared to 45% of men.
<p><b>Inheritance rights</b></p> <p><i>Are women and men in the same degree of relationship to a deceased entitled to equal shares in the estate and to equal rank in the order of succession? Are there procedures to address any inequalities in inheritance between women and men e.g. can a will be written, can beneficiaries agree to inherit equal shares of the estate or can the children agree to forgo their inheritance in favour of their mother upon the death of their father?</i></p>	<p>Generally, inheritance rights between women and men are unequal. Articles 260-299 of the SPSL details the inheritance shares of the beneficiaries, which is based on <i>Shari'ah</i>.<sup>99</sup> In many instances, for example in the case of a widow and widower, a woman is entitled to half the share of a man.<sup>100</sup></p>		<p>The Government of Syria in its 2012 report to the CEDAW Committee acknowledged that in some areas, women do not inherit land and therefore do not own land. This is despite the protection of this right under the <i>Shari'ah</i> and the law. The Syrian government cited negative customs as an obstacle to enforcing</p>	<p>A person may choose to write a will. A will can only be written with respect to one-third of the estate (unless the beneficiaries agree to otherwise).<sup>102</sup></p> <p>Current laws and procedures do not address the issue of agreement by beneficiaries to distribute a deceased's assets in equal shares, but</p>	

<sup>93</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 11, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>94</sup> Article 14 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>95</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), paras. 366, 377(g), <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>97</sup> The World Bank, "Labour force participation rate, male (% of male population ages 15+) (modelled ILO estimate)",

<http://data.worldbank.org/indicator/SL.TLF.CACT.MA.ZS>

<sup>98</sup> UNDP, "Human Development Report 2016", Tables 5, 9, 14, pp. 214-217, 230-233, 250-253, [http://hdr.undp.org/sites/default/files/2016\\_human\\_development\\_report.pdf](http://hdr.undp.org/sites/default/files/2016_human_development_report.pdf)

<sup>90</sup> Article 73 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>91</sup> Article 75 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>99</sup> Articles 260-299 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>; Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), pp. 98-101,

<http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>100</sup> Article 268 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<p>Applicable CEDAW Provision Paras. 34-35 GR21 Paras. 49-53 GR29</p>			<p>women's inheritance rights.<sup>101</sup></p>	<p>there are multiple <i>fiqh</i> arguments that permit such division by mutual consent of all beneficiaries.<sup>103</sup></p>	
<p><b>Violence against women in the family</b></p> <p><i>Are there laws that define what constitute domestic violence such as battery, female circumcision, marital rape and other forms of sexual assault and violence that affect a woman's mental health which are perpetuated by traditional attitudes? Is there specific legislation that recognises domestic violence as a crime? Is the husband allowed to discipline his wife? Can a suspected perpetrator marry his alleged abused victim to avoid punishment? Are there support services for women who are the victims of aggression or abuses?</i></p>	<p>Article 33 of Constitution obligates the State to preserve the dignity and security of all Syrians.<sup>104</sup></p> <p>Syria has not adopted specific legislation to criminalise acts of domestic violence.<sup>105</sup></p> <p>The Criminal Code contains some general prohibitions that are applicable to domestic violence, including general assault and battery.</p> <p>The Penal Code does not specifically criminalise marital rape.<sup>106</sup></p> <ul style="list-style-type: none"> <li>Article 489 of the Penal Code on rape excludes marital rape;</li> </ul>		<p>The Government of Syria in its 2012 report to the CEDAW Committee informed that many measures have been taken to counter violence against women. The Syrian Commission for Family Affairs for instance, established a National Observatory to monitor cases of domestic violence and a Family Protection Unit to receive complaints.</p>		<p>Based on a number of civil society and media reports, Syrian women are reporting that domestic violence and sexual violence has intensified since the conflict began in 2011. The situation is aggravated in refugee camps.<sup>108</sup></p>

<sup>102</sup> Article 218 of the Personal Status Law (1953), <https://elawpedia.com/viewfile/36>

<sup>101</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), para. 365, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>103</sup> Fatwa 137741 with Respect to Agreement of Beneficiaries on Distribution, 13 July 2010, <http://fatwa.islamweb.net/fatwa/index.php?page=showfatwa&Option=Fatwald&Id=137741>

<sup>104</sup> Article 33 of Syria's Constitution (2012), [https://www.constituteproject.org/constitution/Syria\\_2012.pdf?lang=en](https://www.constituteproject.org/constitution/Syria_2012.pdf?lang=en)

<sup>105</sup> OECD Development Centre, "Syrian Arab Republic", *Social Institutions and Gender Index*, p. 4, <http://www.genderindex.org/sites/default/files/datasheets/SY.pdf>

<sup>106</sup> Articles 489, 502 of the Penal Code (1949), [http://www.moj.gov.sy/index.php?option=com\\_content&view=article&id=11%3A2013-10-01-20-45-36&catid=3%3ACriminalgroup&Itemid=6](http://www.moj.gov.sy/index.php?option=com_content&view=article&id=11%3A2013-10-01-20-45-36&catid=3%3ACriminalgroup&Itemid=6); Alia Ahmad and Mais Istanbuli, "Syrian Women Recount Domestic Abuse During Civil War", *News Deeply*, 30 July 2015, <https://www.newsdeeply.com/syria/articles/2015/07/30/syrian-women-recount-domestic-abuse-during-civil-war>

<p><u>Applicable CEDAW Provision</u> GRs 12 &amp; 19 Para. 40 GR21</p>	<ul style="list-style-type: none"> <li>Article 502 of the Penal Code exempts a rapist from punishment if he marries his victim</li> </ul>		<p>A 2008 survey on domestic showed that some women are subject to physical violence to varying degrees.<sup>107</sup></p>		
<p><b>Nationality rights</b></p> <p><i>Does a wife have the right to confer her citizenship on foreign husbands and children? Can the nationality of an adult woman be arbitrarily removed because of marriage or dissolution of marriage or because her husband or father changes his nationality?</i></p> <p><u>Applicable CEDAW Provision</u> Article 9 Para. 6 GR21</p>	<p>A Syrian man may pass his nationality to his non-Syrian wife if the marriage continues for at least two years, she is legally residing in the country, and the Minister of the Interior approves her application.<sup>109</sup> However, the law does not specifically provide for a Syrian woman to confer her nationality to her foreign husband.</p> <p>A Syrian woman who marries a non-Syrian shall keep her Syrian nationality unless she applies to acquire her husband's nationality (and the law to which her husband is subject gives her the right to acquire his nationality).<sup>110</sup> If she subsequently gets divorced, she may apply to restore her</p>		<p>Syria has a reservation to Article 9(2) of CEDAW concerning the mother's right to pass on her nationality to her children.<sup>115</sup></p> <p>The Government of Syria in its 2005 report to the CEDAW Committee acknowledges that since women can only transmit nationally under limited circumstances, it is clear "women are</p>		<p>According to Institute on Statelessness and Inclusion and the Global Campaign for Equal Nationality Rights, the inability of Syrian women are unable to confer nationality on their foreign spouses potentially threatens the marital relationship and thus a child's right to know and be cared for by his or her parents.<sup>117</sup></p>

<sup>108</sup> Badael Foundation et al, "Violations against women in Syria and the disproportionate impact of the conflict on them", *Submission to the Human Rights Council at the 26th Session of the Universal Periodic Review*, November 2016, [http://wilpf.org/wp-content/uploads/2016/06/WILPF\\_VAW\\_HC-2016\\_WEB-ONEPAGE.pdf](http://wilpf.org/wp-content/uploads/2016/06/WILPF_VAW_HC-2016_WEB-ONEPAGE.pdf); Allison Harvey, "UN Inaction and Rape as a Weapon of War in Syria", *Harvard Health Policy Review*, 1 September 2015, <http://www.hhrpronline.org/articles/2016/11/12/un-inaction-and-rape-as-a-weapon-of-war-in-syria>; Alia Ahmad and Mais Istanbuli, "Syrian Women Recount Domestic Abuse during Civil War", *News Deeply*, 30 July 2015, <https://www.newsdeeply.com/syria/articles/2015/07/30/syrian-women-recount-domestic-abuse-during-civil-war>; Phoebe Greenwood, "Rape and domestic violence follows Syrian women into refugee camps", *Guardian*, 24 July 2013, <https://www.theguardian.com/world/2013/jul/25/rape-violence-syria-women-refugee-camp>

<sup>107</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/2 (2012), paras. 388-389, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>

<sup>109</sup> Articles 8, 9 of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>

<sup>110</sup> Article 12 of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>

	<p>Syrian nationality by permission of the Minister of Interior.<sup>111</sup></p> <p>If a Syrian man acquires a foreign nationality, his Syrian wife loses her nationality as well (if the law of the foreign country allows her to obtain her husband's nationality), unless she applies to retain her Syrian nationality within one year of her husband's acquiring of the foreign nationality.<sup>112</sup></p> <p>A Syrian father passes his citizenship to his children regardless of where they are born.<sup>113</sup> Syrian nationality may only be granted to a child born to a Syrian mother if the child is born in Syrian and either: (i) the father's nationality is unknown; or (ii) the father is stateless; or (iii) the child's paternity cannot be legally established.<sup>114</sup></p>		<p>not treated equally as men in regard to this right."<sup>116</sup></p>		
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<sup>115</sup> United Nations Treaty Collection Website: [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg\\_no=IV-8&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtmsg_no=IV-8&chapter=4&clang=en)

<sup>117</sup> Institute on Statelessness and Inclusion and The Global Campaign for Equal Nationality Rights, "Syrian Arab Republic", *Submission to the Human Rights Council at the 26th Session of the Universal Periodic Review*, 24 March 2016, paras. 8, <http://www.institutesi.org/SyriaUPR2016.pdf>

<sup>111</sup> Article 14 of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>

<sup>112</sup> Article 11 of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>

<sup>113</sup> Article 3(a) of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>

<sup>114</sup> Articles 3(b) 3(c) of the Syrian Nationality Law (1969), <http://www.refworld.org/pdfid/4d81e7b12.pdf>

<sup>116</sup> Syria State party report, U.N. Doc. CEDAW/C/SYR/1 (2005), p. 44, <http://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>