Joint report

Syria
Submission to the Human Rights Committee for the 130th Session
(Information for Adoption of List of Issues Prior to Reporting)
12 October to 6 November 2020

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I. Introduction

1. More than 10 years have passed since the last review of the Syrian Arab Republic (Syria) before the United Nations (UN) Human Rights Committee (HRC). Many events have taken place in Syria. Notably, a non-international armed conflict ensued in early 2012, which have had devastating effects on Syrians. The conflict witnessed the commission of countless crimes, violations of civil and political human rights and the displacement of millions of Syrians.

2. Syrian women have long faced discrimination (both in law and practice) and violence. With the start of an armed conflict in 2012, Sexual and gender-based violence (SGBV) became a devastating feature of the Syrian conflict. While SGBV was committed against Syrians from all backgrounds, the Independent International Commission of Inquiry on the Syrian Arab Republic (COI) reports that “women and girls have been disproportionately affected, victimized on multiple grounds, irrespective of perpetrator or geographical area.”

3. This submission is made to the Human Rights Committee in advance of its adoption of list of issues prior to reporting on Syria at the 130th session. The submission will provide information to the members of the Human Rights Committee on acts of torture, enforced disappearances and arbitrary detention perpetrated by the Government of Syria and its affiliated forces in Syria. The submission will also provide information on violence, discrimination, SGBV and other violations committed against Syrian women by the Government of Syria and its affiliated forces.

II. Overview of Legal Framework

4. Torture, enforced disappearances, and arbitrary detention became a feature of the armed conflict in Syria. Acts of enforced disappearance have an effect on the enjoyment of a number of civil rights protected under the ICCPR. In General Comment No. 36, the HRC clarified that “Extreme forms of arbitrary detention that are themselves life-threatening, in particular enforced disappearances, violate the right to personal liberty and personal security and are incompatible with the right to life.” and that enforced disappearance “removes that person from the protection of the law and places his or her life at serious and constant risk, for which the State is accountable.”

5. These practices violate a number of rights and in breach of a number of obligations under the International Covenant on Civil and Political Rights (ICCPR) including the right to life (Article 6), the right to be free from torture (Article 7) and the right to liberty and security (Article 9).

6. Rape, torture, sexual assault, domestic violence, trafficking, forced marriages, other forms of violence, traditional harmful practices and legal discrimination are all forms of discrimination against women and violate a wide range of women human rights. Many of the violated rights are protected under the ICCPR including: right to non-discrimination in the enjoyment of civil and political rights.

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3. Ibid. para. 58.
7. In addition, as the submission will show, the Government of Syria tolerates the commission of violations by its armed forces and affiliated militias, and fails to investigate and hold accountable those responsible for these violations, thus creating an environment of impunity, clearly failing to provide an effective remedy to victims of human rights violations, in breach of its obligation under Article 2(3) of the ICCPR.

8. In its concluding observations on the Syrian Arab Republic in 2012, the Committee Against Torture (CAT) expressed its grave concern with regards to the “Widespread use of torture and cruel and inhuman treatment of detainees, individuals suspected of having participated in demonstrations, journalists, web bloggers, defectors of security forces, persons wounded or injured, women and children.” The CAT further noted the “Widespread practice of arbitrary and unlawful arrest and subsequent unlawful detention of civilians, including the elderly, children and women.”

9. The Committee on the Elimination of Discrimination against Women noted the devastating effects of the armed conflict on Syrian women and called on the Government of Syria to “Investigate, prosecute and punish all cases of violence against women, including cases of sexual violence perpetrated by Government forces and affiliated militia and non-State armed groups.” It further made recommendations to the Government of Syria to amend discriminatory laws against women and seize its discriminatory practices.

10. The submitting organizations note that the state of emergency declared in Syria some 50 years ago does not in any manner whatsoever justify violating Articles 6, 7, 8 (paragraph 1 and 2), 11, 15, 16 and 18 of the ICCPR. This is clear by reference to Article 4 (2) of the ICCPR which clarifies which rights are non-derogable. The HRC noted in its concluding observation on Syria in 2005 that it is not convinced that the conflict with Israel justifies the derogations the Government of Syria has implemented and that “The State party [Syria], guided by the Committee’s general comment No. 29 (2001) on derogations during a state of emergency (article 4 of the Covenant), should ensure firstly that the measures it has taken, in law and practice, to derogate from Covenant rights are strictly required by the exigencies of the situation; secondly, that the rights provided for in article 4 (2) of the Covenant are made non-derogable in law and practice; and thirdly, that States parties are duly informed, as required by article 4 (3) of the Covenant, of the provisions from which it has derogated and the reasons therefor, and of the termination of any particular derogation.”

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4 Committee against Torture, Consideration by the Committee against Torture of the implementation of the Convention in the Syrian Arab Republic in the absence of a special report requested pursuant to article 19, paragraph 1, CAT/C/SYR/CO/1/Add.2, 29 June 2012.

5 Committee on the Elimination of Discrimination against women, Concluding observation on the second periodic report of Syria, CEDAW/C/SYR/CO/2, 18 July 2014.

III. Torture, Enforced Disappearances and Arbitrary Detention

11. In its concluding observations on Syria in 2005, the Human Rights Committee concluded that the Government of Syria “should take firm measures to stop the use of incommunicado detention and eradicate all forms of torture and cruel, inhuman or degrading treatment or punishment by law enforcement officials, and ensure prompt, thorough, and impartial investigations by an independent mechanism into all allegations of torture and ill-treatment, prosecute and punish perpetrators, and provide effective remedies and rehabilitation to the victims.”

12. Since the beginning of civil unrest in March 2011, the Government of Syria has ramped up its use of torture, enforced disappearances and arbitrary detention against dissidents, political opponents and members of the opposition. Detainees held in government-run detention facilities frequently die due to torture or are victims of extrajudicial killings. In 2019, 275 individuals died due to torture at the hands of the Syrian government.

13. In Saydnaya, a military prison well-known as a site of industrial scale torture and extrajudicial executions, between 10,000 and 20,000 individuals are believed to have been detained at the site as of late 2016. Upon arrival at Saydnaya, detainees are subject to a “welcome part” where they severely beaten by guards. Following this, they are then taken to small underground cells to which the guards refer as “the solitaries”. They are then forced to strip naked and crowd together in the shower area of the cell, where they are ordered to remain for the duration of their detention in the underground cells, which usually lasts anything between a few days to one month. The victims are then taken to above-ground cells in groups of 30 to 35 people, referred to as “group rooms” by prison authorities.

14. The spread of infectious disease and other medical ailments is also pervasive in Saydnaya. Prisoners reported the spread of scabies, lice, and diarrhoea. The extent of the unsanitary conditions may be understood in terms of the prison officials’ reaction thereto: guards and doctors often donned protective gear and masks to avoid contracting disease from the detainees. Saydnaya detainees are habitually denied access to medicine and medical care and are “often tortured if they make requests for either”.

15. Another example of the acts committed by the Government of Syrian against individuals in detention centres is the infamous ‘Caesar Photos’. A collective of over 50,000 photographs smuggled out of Syria a by a military defector codenamed Caesar, came to public attention. The images, which were taken between May 2011 and August 2013, reveal emaciated bodies and marks such as scars, bruises,

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7 Ibid.
11 Ibid.
12 Ibid
13 Ibid.
14 Ibid.
15 European Center for Constitutional and Human Rights, “‘Caesar’ Photos Document Systematic Torture”
open wounds, and others indicative of torture. Out of 53,275 photos, 28,707 are of individuals who
died in state-run detention centres or military hospitals\textsuperscript{16}, whose bodies, to which ID numbers were
affixed by paper or written directly on the skin, were placed in morgues or garages of military hospi-
tals. According to former detainees interviewed by HRW, among whom two are doctors, the primary
causes of death were gastrointestinal infections, skin disease leading to infection, torture, mental
distress that led detainees to refuse to eat and drink, chronic diseases for which detainees did not
receive the necessary medication, and starvation.\textsuperscript{17}

16. The Independent International Commission of Inquiry on the Syrian Arab Republic (COI) has doc-
umented in many of its reports acts of enforced disappearances, torture and arbitrary detention
carried out by the Government of Syria in a widespread and systematic manner.\textsuperscript{18} It has further con-
cluded that there are “reasonable grounds to believe that, in relation to relevant conduct occurring
after the start of the armed conflict, the Government has committed the war Crimes of murder,
cruel treatment, torture, rape, sexual violence, and outrages upon personal dignity.”\textsuperscript{19} and that the
Government is also responsible for the “crimes against humanity of murder, rape or other forms of
sexual violence, torture, imprisonment or other severe deprivation of physical liberty in violation of
fundamental rules of international law, enforced disappearance and other inhuman acts.”\textsuperscript{20}

17. Accordingly, the submitting organizations suggest the following questions with regards to the infor-
mation provided above:

• What steps has the state party taken to stop existing and prevent future acts of its agents and affili-
ated militias in violation of Articles 6, 7 and 9 of the ICCPR?

• In its comments on the concluding observations of 2005,\textsuperscript{21} the Government of Syria declared that its
domestic laws prohibit torture, what steps has the Government of Syria taken to implement interna-
tional law definition of the crimes of torture and cruel treatment in its domestic system?

• What is the national framework, applied as a matter of policy and law, by the Government of Syria in
the interrogation and treatment of detained individuals?

• What steps is the state party taking to investigate allegations of torture, enforced disappearances
and arbitrary detention occurring in government run detention centres?

• What statistical information can the Government of Syria provide on its investigation of torture,
enforced disappearances and arbitrary detention, and the indictment and prosecution of those re-
sponsible for the violation of civil and political rights?

• What remedies, if any, has the Government of Syria provided to victims of enforced disappearances,
torture and arbitrary detention?

\textsuperscript{16} Human Rights Watch, ‘If the Dead Could Speak: Mass Deaths and Torture in Syria’s Detention Facilities’ (December 2015) avail-
able at https://www.hrw.org/report/2015/12/16/if-dead-could-speak/mass-deaths-and-torture-syrias-detention-facilities
\textsuperscript{17} Ibid. p. 9.
\textsuperscript{18} International Independent Commission of Inquiry on the Syrian Arab Republic, Detention in the Syrian Arab Republic: A Way
Forward. 8 March 2018, p. 4.
\textsuperscript{19} International Independent Commission of Inquiry on the Syrian Arab Republic, Out of Sight, Out of Mind: Death in Deten-
\textsuperscript{20} Ibid. para. 98.
\textsuperscript{21} Human Rights Committee. Comments by the Government of Syria on the concluding observations of the Human Rights Com-
mittee. CCPR/CO/84/SYR/Add.1, 15 September 2006.
IV. The Situation of Syrian Women

18. Syrian Women have long faced discrimination (in law and practice), violence, oppression. With the start of civil unrest in 2011, women and girls were impacted disproportionately. The following part will highlight the legal discrimination existing in Syrian laws against women and highlight the different kind of violations and crimes taking place in areas under the control of the Government of Syria against women.

A. Legal Discrimination

1. The Syrian Nationality Law Discriminates against Women

19. According to Article 3 of the Syrian Nationality law of 1969, issued by decree No. 276, an individual that is born inside or outside of Syria is considered Syrian only if the father holds a Syrian nationality. The Syrian nationality depends on the nationality of the father (jus sanguinis), thus discriminating against Syrian women. Today, with millions of Syrians outside of Syria, many individuals born to Syrian women are not eligible for Syrian nationality.

2. The Syrian Penal Code Discriminates against Women

20. Although Article 33 of the Syrian Constitution places a positive obligation on the state to “preserve the dignity and security of all Syrians”, Syria has not adopted any specific legislation which criminalizes acts of domestic or sexual violence.

21. In 2020, Law No. 2/2020 was issued, repealing Article 548 of the Syrian Penal Code, which was first amended in 2011 and used to originally provide grounds to exclude the criminal responsibility of perpetrator in situations of ‘honor killing’. While this amendment to the law may appear to be a positive step, the Syrian Penal code still consists of many articles that discriminate against women and provide impunity to perpetrators of crimes against women.

22. For example, Article 489 provides that “whoever coerced someone other than his spouse by violence or threats to have sexual intercourse shall be punished with hard labor for at least fifteen years.” Article 489 excludes marital rape from the ambit of rape.

23. Furthermore, Article 192 of the Penal code provides that a sentence may be mitigated if it becomes apparent to the judge that the motive for the crime was “honorable”. Syrian Case Law appears to consider a crime that is committed for the benefit of society with no personal grudge, motive and benefit to be motivated by honor. Article 242 on the other hand still provides for grounds to mitigate the grounds of a sentence if the perpetrator committed their crime “in rage”. Those two aforementioned articles are vague and may allow for perpetrators of crimes against women to cite them.

24. Finally, Articles 473-474 of the Penal Code consider that a married woman had committed adultery regardless of where the act took place, and her sentence would range from three months to two years in prison. On the other hand, a married man can only be charged with adultery if the act took place in the marital home, and his sentence would range from one month to one year in prison.
3. The Personal Status Law Discriminates against Women

25. All of the 8 different laws that regulate personal status issues in Syria contain forms of discrimination against women. This submission will focus on the General Personal Status Law No.59 of 1953 (Amended by Law No. 4 of 2019).

26. While Law No.4 of 2019 has seen some positive changes in the regulation of personal status issues such as the amendment of Article 16 to raise the marrying age for men and women to 18, Article 18 (even though amended in 2019) provides for discretionary powers for a judge to marry a boy or a girl who are 15 years old.

27. In Articles 21-24, Law No.59 provides the male relative (Wali) with the guardianship in marriage. Amendments to Article 23 of Law No.4 provides for the guardianship to be transferred to mother of the women in case there is no male Wali. The guardianship system prevents women from exercising their right to family and marriage independently and freely, and even if it were to be upheld, discriminates against women in issues of guardianship.

28. Law No.4 amended the Articles of Law No.59 concerning the custody of child between divorced parents. According to the amended Article 139, the women has priority in the custody of children. However, once the child is 15 years old, the father has the right to request that the custody is transferred to him. This provision discriminates against women and does not make any reference to the best interest of the child, which could be in many instances that they remain with their mother.

29. Finally, Law No.59 and its amendments in Law No.4 still provide the male relative with more rights in inheritance according to the Qur’anic text “to the male, a portion equal to that of two females.”

B. Violations in the Context of Detention

30. Since the start of the conflict, women and girls have been subjected to arbitrary detention, enforced disappearances, torture, and sexual violence at the hands of the Syrian government. As of March 2020, approximately 10,000 women are believed to be detained or forcibly disappeared by the Government of Syria.22

31. Although the majority of those arbitrarily detained by the Syrian Government are men and boys, thousands of women and girls faced the same fate. Typically, female relatives of perceived male dissidents or suspected members of armed groups are targeted. Women and girls related to defectors, protestors, and medical care and food provides to the opposition are also the subject of arrests. Both in the private and public sphere, females were arrested on this basis by Syrian security forces or militias acting on their behalf. These arrests take place at demonstrations, during home raids, checkpoints, administrative offices, and on the streets. 23

32. In government-run detention centres, women are subjected to routinely torture. They are severely beaten and kicked all over their bodies, including the genital area, and threatened with rape if they fail to provide information. According to the COI, some detainees were naked while being tortured, while others were electrocuted on their breasts and vaginas and beaten with pipes hanging from the ceiling.24 The female detainees sustained serious injuries and, in some cases, die as a result. Testimonies

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24 Ibid. para. 33.
of formerly detained women reveal that the torture was so severe that it in some cases lead to a loss of consciousness. Many also recalled finding semen between their legs and pain in their genitals. 25

33. While on route to the detention facilities, women are sexually abused by army officers and pro-government militia and subjected to insults. Upon arrival, such abuses persist. During inspection prior to their admission, male guards search women intimately and in some cases rape them. 26 The manner in which these searches are conducted on the whole are clearly “sexualized and humiliating”. 27 These take place in the military security branches as well as unofficial detention centers. According to the COI, the most invasive of these searches took place at Military Security Branch 215, where female detainees are stripped naked in front of the male officers in charge of admissions. 28 They are then made to squat before them and other women while a male officer inserts his fingers into their genitals under the guise of an inspection. Newly admitted females usually receive the worst treatment. Derogatory sectarian insults are often hurled at the women in general as well. 30

34. While the victims are mostly adult women between the ages of 18 and 45, the COI documented the rape of several girls, including one aged 9, the sexual abuse and humiliation of elderly women. 31 Pregnant women were also reported to be raped on occasion, with some experiencing miscarriages. Some women and girls are gang-raped by several different men. Victims typically lose consciousness during the rapes on account of the violence of the acts inflicted. 32

The Impact of Detention on Women

35. Although the physical torture ceases upon a woman’s release from government-run detention facilities, their re-entry into society and resumption of a social life is far from easy. Women in this respect are disproportionately affected by detention in ways that their male counterparts are not. In Syrian society, it is commonly believed that every woman previously detained has undoubtedly been raped. Families of detained women are consequently ostracized due to the associated stigma. The families of the victims, in turn, shun them in many cases after their release. This leads victims to seek refuge abroad, alone, or with relatives. 33

36. Released women also run the risk of being victims of so-called ‘honour killing’. One woman describes being refused by her immediate and extended family upon her release and accused her of having been subjected to acts that tarnish the family reputation. She then married a young man who gave her shelter. A few months later, her brothers had sent two men to try to kill her. 34

37. Survivors of sexual violence who choose to remain the country typically will not discuss their experiences with friends or family for fear of judgement. Psychological, medical, and legal support in Syria is lacking, which is another reason for this. Formerly detained women therefore often suffer in silence from severe psychological trauma, including anxiety, depression, and post-traumatic stress.

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25Ibid.
26Ibid. para. 31.
27Ibid.
28Ibid. para. 32.
29Ibid.
30Ibid. para. 29.
31Ibid. para. 37.
33Ibid. p. 43.
disorder. Some women have developed psychosis and committed suicide as a result. Psychologists working with former detainees describe as common amongst them a heightened sense of fear, feelings of humiliation and indignity, negative self-perception, and withdrawal from society.35

C. Domestic Violence in Government-Controlled Areas
38. Syrian laws do not criminalize domestic violence. Between November 2017 and March 2019, UNPFA reports indicated that domestic violence is normalized in Syrian society. Family violence against women is prevalent too with respect to brothers and in-laws.36
39. According to the UNPFA, the impact of domestic violence is amplified in times of crisis, which in turn increases women’s level of vulnerability and psychological distress.37
40. The conflict has also contributed to a shift in traditional gender roles. The UNPFA report of November 2017 observed that the number of women working outside the house had increased, thus increasing the proportion of their contributions to the family’s income. This has been connected to increase in domestic violence on account of men perceiving the change in family dynamics as a threat.38

D. Women’s Participation in the Public Life
41. In 1953, women in Syria were given the right to vote and hold office. Since then, however, only a few seats in parliament and other positions in high office have been filled by women.39
42. In 2016, women held only 13% of seats in Syrian parliament (32 seats out of 250)40, a proportion which is lower than both regional and global averages. Women participation in local councils are anywhere between 2-4%.42
43. In the last Parliamentary elections in July 2020, which had a turnout of around 33%, there were 200 female candidates out of 1658 candidates. 28 female candidates succeeded in the elections, an 11.2% of seats.43

E. Harassment against Women Journalists
44. Female journalists in Syria face incessant harassment and threats by members of the Syrian government. Mirna Al-Hassan, for instance, a journalist working in Idlib, had been the target of a malicious smear campaign by Faris Al-Shihabi, a member of the Syrian People’s Council. Al-Shihabi posted a rumour on his social media account stating that Al-Hassan was sexually assaulted by four members of the Syrian national army. As a result, the female journalist faced a barrage of insults and threatening messages.44

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35 Ibid. p. 22.
37 Ibid.
40 The World Bank, World Development Indicators: Women and Development.
41 The Inter-Parliamentary Union, Women in National Parliaments.
45. In its 2019 annual report, the Syrian Center for Journalistic Freedoms (SCJF) documented the killing of 7 female journalists and 14 arrests out of a total of 35 violations against female workers in the field of journalism and media in Syria, since the beginning of the revolution in 2011 until last year. The center also noted that the Syrian regime ranked first on the list of perpetrators of violations against female workers in media.  

46. Accordingly, the submitting organizations suggest the following questions with regards to the information provided above:

• What steps has the Government of Syria taken to stop existing and prevent future acts of its agents and affiliated militias in violation of women rights under Articles 6, 7 and 9 of the ICCPR?
• What is the national framework, applied as a matter of policy and law, by the Government of Syria in the interrogation and treatment of female detained individuals?
• What steps is the state party taking to investigate allegations of torture, enforced disappearances and arbitrary detention against women and girls occurring in government run detention centres?
• What statistical information can the Government of Syria provide on its investigation of torture, enforced disappearances and arbitrary detention, and the indictment and prosecution of those responsible for the violation of women and girls civil and political rights?
• What remedies, if any, has the Government of Syria provided to female victims of enforced disappearances, torture and arbitrary detention?
• What steps has the Government of Syria taken to combat stereotypes and traditional harming practices against Syrian women?
• What steps has the Government of Syria taken to provide support for women survivors of SGBV?
• What concrete steps has the Government of Syria taken to amend its laws and end discrimination in the Nationality Law, the Personal Status Law and the Penal Code against Syrian Women?
• What steps has the Government of Syria taken to protect women against domestic violence and workplace harassment and to amend laws that provide impunity for perpetrators of these acts?
• What steps has the Government of Syria taken to raise the level of participation of Syrian women in the public life and official posts? Has the Government adopted any laws or regulations to this effect?
• What statistical information can the Government of Syria provide as to the participation of women in the public life?
• What steps has the Government of Syria taken to raise public awareness of women rights and role in society?
