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Women's Rights between Law and Reality within Areas Outside the Syrian Regime Control

In most countries of the world, women have suffered for long ages from discrimination between them and men. Women have fought a long struggle to get to obtain their rights, and to narrow gender gap with men whether at the level of legislation or practical application. Women were deprived of their civil, political, even economic and social rights.

This struggle resulted in gradual gains for women's rights; as well as emergence of a system of international laws that dates back to more than one hundred years. This is culminated in the convention of eliminating all forms of discrimination against women which entered into force in 1981.



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Information is obtained from the ACU's field network of enumerators, by conducting Key Informant Interviews (KIIs) with sources believed to be reliable but is in no way guaranteed. No guarantee of any kind is implied or possible where projections of future conditions are attempted.

Women's Rights between Law and Reality within Areas outside Regime Control 2021

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 Legal Expert Team.

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Women's Rights **2 0 2 1**

between Law and Reality

within Areas Outside the Syrian Regime Control

- Introduction -

- In most countries of the world, women have suffered for long ages from discrimination between them and men. Women have fought a long struggle to get to obtain their rights, and to narrow gender gap with men whether at the level of legislation or practical application. Women were deprived of their civil, political, even economic and social rights.
- This struggle resulted in gradual gains for women's rights; as well as emergence of a system of international laws that dates back to more than one hundred years. This is culminated in the convention of eliminating all forms of discrimination against women which entered into force in 1981.
- Although many international conventions ensuring women's rights were issued, there were a lot of obstacles to their implementation, especially in our region. This is because patriarchal culture is entrenched in our society and is associated with patriarchal religious discourse; in addition to the existence of totalitarian regime which deprived all male and female Syrians from their rights in light of complete absence of human rights culture.
- Although Syrian revolution erupted and raised the slogan of freedom and dignity, this was not reflected on concepts related to negative discrimination between men and women. On the contrary, war increased and its radical movements have spread although Syrian women have paid high price so that Syrian society can reach its freedom and dignity.
- Liberation of Syrian Society will not be achieved as long as Syrian women are far from their rights. Thus, obtainment of rights by Syrian women is a societal duty affecting men and women in order to guarantee better future for our country away from all forms and types of tyranny.

This study is the product of a collaborative effort of the Information Management Unit (IMU) of the Assistance Coordination Unit (ACU) and legal experts within the framework of the legal platform.

ACU and the legal platform's experts would like to express sincere gratitude and appreciation to the French Ministry of Foreign Affairs (MoFA|MEAE) which funded this study aiming at promoting human rights values to improve the well-being of the Syrians residing in NS.

First Chapter

Methodology

1. Assessment Tools:

IMU, in coordination with the experts of the legal platform, developed the main indicators of the study. The questionnaires were developed according to two perception surveys, one with women, while the other with men.

2. Assessment Sample:

The assessment was conducted within 64 sub-districts affiliated with 21 districts in the governorates of Idlib, Aleppo, Ar-Raqqa, Al-Hasakeh and Deir-ez-Zor, and all cities and towns covered by the assessment are outside the control of the regime forces. Moreover, the study included perception surveys about women's participation in working and political life with women and men.

Perception surveys with women

These perception surveys were conducted with women in particular; and included information about women's participation in working and political life, in addition to the decision-making process.

Table (1): Survey sample of women KIs.

Governorate	District	Subdistrict	Community	No. of surveys
Idlib	4	17	47	220
Al-Hasakeh	4	15	22	69
Ar-raqqa	3	6	27	157
Aleppo	7	23	42	132
Deir-ez-Zor	3	6	8	12
Total	21	67	146	590

IMU enumerators conducted 590 surveys with women in 146 cities and towns. cities and towns that reflect the general situation were selected. The surveys were conducted with most of the age groups of women, including both women who are originally from the area and with those displaced as well.

Perception surveys with men:

These perception surveys were conducted with men in particular; and included information about women's participation in working and political life, in addition to the decision-making process.

Table(2) Survey sample of men KIs.

Governorate	District	Subdistrict	Community	No. of surveys
Idlib	4	17	44	177
Al-Hasakeh	4	13	27	39
Ar-raqqa	3	6	12	19
Aleppo	7	20	37	102
Deir-ez-Zor	3	5	9	15
Total	21	61	129	352

IMU enumerators conducted 352 surveys with men in 129 cities and towns. Cities and towns that reflect the general situation were selected. The surveys were conducted with men, both men who are originally from the area and those displaced as well.

Data of the report are displayed according to 3 geographical areas:

- **Idleb Governorate:** It represents all cities and towns outside the regime's control in Idleb governorate; in addition to the cities and towns outside the regime's control in the western countryside of Aleppo within Atareb and Daret Azza sub-districts. This geographical area is under the control of the opposition; And within this geographical area the so-called Salvation government exists.
- **Northern Aleppo, Ar-Raqqa, and Al-Hasakeh:** these cities and towns represent the districts of Afrin, A'zaz, Al Bab and Jarablus affiliated with Aleppo governorate. In addition to cities and towns in Tell Abiad and Suluk sub-districts affiliated with Ar-Raqqa governorate; Ras Al Ain sub-district of affiliated with Al-Hasakeh governorate. This geographical area is under the control of the Turkish-backed opposition; Within this geographical area, the interim government exists represented by the local councils and departments affiliated with it.
- **Eastern Syria:** It represents all cities and towns outside the control of the regime and under the control of the so-called SDF forces in the governorates of Ar-Raqqa, Al-Hasakeh and Deir-ez-Zor; Within this geographical area SDF-affiliated government exists.

3. Enumerators Training and Data Collection:

IMU has a network of 100 enumerators trained to administer the questionnaires for the data collection. The enumerators training lasted for 1 day and was conducted online via Skype for Business. The enumerators received a total of 5 hours of training. The training sessions were recorded and sent to the enumerators to be a reference in case they needed to recall any of the information presented during the training. The training included a two-day test period for piloting. The enumerators' feedback was collected after the piloting phase, and some points were modified in the questionnaire based on that feedback. One or more enumerators were assigned to collect data according to the size of the population of each assessed sub-district. The coordinators based in Turkey Office, provided organizational oversight and daily support to the enumerators during the data collection process, where the enumerators referred to them in case they encountered any problem. Each enumerator received a work plan from the network coordinators stipulating the coverage of their data collection.

4. Data Management, Analysis and Report Preparation

The enumerators filled the questionnaires electronically using ONA program. Coordinators, who were responsible for research oversight encoded the data into an Excel database. Data analysis team proceeded with data cleaning and validation to find and correct any odd or missing values or complete them in conjunction with the data collection. After data cleaning, IMU data analysis team proceeded with data visualization, generating tables, and graphs. Tools such as Dax, Query Editor, Arc GIS, Adobe Illustrator, Adobe InDesign and Adobe Photoshop were used to generate a visual interpretation of the collected data. The first draft of the report was written in Arabic by the experts of the legal platform and simultaneously translated into English. Both versions of the report (Arabic - English) have been subjected to quality assurance standards in the preparation and content internally and externally.

Second Chapter

Historical Development of Women's Rights in International Law



Historical Development of Women's Rights in International Law

As a result of long struggle of women in the world, as well as emergence of human rights system, international conventions of women's rights started to appear since the beginning of the twentieth century. The system of rights did not come all at once, but rather gradually in a way that developed over a period of more than one hundred years until it became as it is now. It started in 1919 when the International Labor Organization set the right of working women to have maternity leave; then, their work at night in mines was prohibited through the following conventions:

1. Convention concerning maternity protection of 1919 "Convention Concerning Employing Women Before and After Childbirth".¹
2. Convention concerning women work during night of 1919 "Convention Concerning Women Work during Night".²
3. Convention concerning underground work of women of 1935 "Convention Concerning Employing Women to Work Underground in All Types of Mines".³

In 1945, with the establishment of UN organization, women's rights became an integral part of international law rules in times of peace and war. Founding charter of such organization emphasized that women's rights are included in the basic rights related to human dignity which shall be truly observed, and even associated with international stability and peace.

It was stated in the second paragraph of preamble of the UN Charter: "we the peoples of the United Nations determined... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small". First Article adds in its third paragraph which defines the organization objectives, including: "to achieve international co- operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to sex, language, or religion; men or women".⁴

Article /55/ of the Charter also mentioned non- discrimination stating that: "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to, sex, language, religion, or race". In order to fulfill the UN Charter, Commission on the Status of Women was established by Economic and Social Council in 1946.

Then, several conventions were issued concerning human rights emphasizing equality of rights of men and women. In 1948, Universal Declaration of Human Rights was issued which emphasized within its Second Article that "everyone is entitled to all the human rights and fundamental freedoms set forth in this Declaration, without distinction of any kind, especially distention of... sex..." Universal Declaration of Human Rights marked an important milestone in the history of women's rights. It clearly and explicitly recognized gender equality and equal rights of men and women.⁵

In 1966, the two international covenants were issued. The International Covenant on Civil and Political Rights emphasized equality of men and women. Article /3/ thereof stated:

"The states parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant".⁶

1. International Labor Organization convention No. 3 concerning maternity protection issued by general conference of International Labor Organization in 1919. It was reviewed in in 1952 under convention No. 103; then, in 2000 under convention No. 183 <http://hrlibrary.umn.edu/arabic/ilo-c183.pdf>

2. International Labor Organization convention No. 4 issued by general conference of International Labor Organization in 1919. It was modified in 1934 under convention No. 41, then in 1948 under convention No. 89. <http://hrlibrary.umn.edu/arabic/ilo-c089.pdf>

3. International Labor Organization convention No. 45 issued by general conference of International Labor Organization in 1935 <http://hrlibrary.umn.edu/arabic/ilo-c045.pdf>

4. UN Charter: <http://hrlibrary.umn.edu/arab/a001.html>

5. Universal Declaration of Human Rights <http://hrlibrary.umn.edu/arab/b001.html>

6. International Covenant on Civil and Political Rights <http://hrlibrary.umn.edu/arab/b003.html>

7. International Covenant on Economic, Social and Cultural Rights <http://hrlibrary.umn.edu/arab/b002.html>

In addition, Third Article of International Covenant on Economic, Social and Cultural Rights states:

“The states parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.”⁷

After the Universal Declaration of Human Rights, an international group of conventions were issued emphasizing women’s rights and seeking to achieve equality. UN, International Labor Organization, and United Nations Educational, Scientific, and Cultural Organization (UNESCO) issued documents of protecting women’s rights, including:

- Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949.⁸
- Equal Remuneration Convention of 1951: “Convention concerning Equal Remuneration for Men and Women for Work of Equal Value.”⁹
- Convention on the Political Rights of Women, of 1952.¹⁰
- Convention on the Nationality of Married Woman of 1957.¹¹
- Convention against Discrimination in Education of 1960.¹²
- Convention on the Elimination of All Forms of Discrimination against Women of 1979 (CEDAW) which is considered the profit of thirty years of work and preparation to set such comprehensive convention which is concerned with women status and promoting their various rights.¹³
- Convention on Equality of Opportunity and Treatment for Men and Women Workers: workers with family responsibilities of 1981.¹⁴
- Convention on the Rights of the Child of 1989.¹⁵
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families of 1990.¹⁶
- Declaration on the Elimination of Violence against Women of 1993.¹⁷
- Crime prevention and criminal justice measures to eliminate violence against women.¹⁸
- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women concerning submission of complaints by individuals and groups of 1999.¹⁹
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementary to UN Convention against Transnational Organized Crime of 2000.²⁰
- Convention on the Rights of Persons with Disabilities of 2006.²¹
- UN Rules for the Treatment of Women Prisoners and Non- custodial Measures for Women Offenders (Bangkok Rules) of 2010.²²

8. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others: was approved and presented for signature, ratification and accession under resolution of UN General Assembly 317 (D- 4), of 1949 <http://hrlibrary.umn.edu/arab/b033.html>

9. International Labor Organization Convention No. 100 Issued by general conference of International Labor Organization in 1951, <http://hrlibrary.umn.edu/arabic/ilo-c100.pdf>

10. Convention on the Political Rights of Women was approved by UN general assembly in its plenary session No. 409 of 1952 <http://hrlibrary.umn.edu/arab/b023.html>

11. Convention on the Nationality of Married Woman: was approved by UN general assembly in its plenary session No. 647 of 1957 <http://www.whatconvention.org/fr/convention/158>

12. Convention against Discrimination in education: was approved by UNESCO general conference in 1960 <http://hrlibrary.umn.edu/arab/b014.html>

13. CEDAW <https://www.un.org/womenwatch/daw/cedaw/text/0360793A.pdf>

14. International Labor Organization Convention No. 156 issued by International Labor Organization general conference in 1981 <http://hrlibrary.umn.edu/arabic/ilo-c156.pdf>

15. Convention on the Rights of the Child was approved and presented for signature, ratification and accession under resolution of UN General Assembly /25 44 dated 20/Nov./1989, effective date 2/Sep./1990, <http://hrlibrary.umn.edu/arab/b026.html>

16. International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, 158/ was approved by the general assembly resolution 45 dated 18/Dec./1990 <https://www.ohchr.org/ar/professionalinterest/pages/cmw.aspx>

17. Declaration on the Elimination of Violence against Women was approved by UN general assembly under its resolution No. 48 /104 dated 20/Dec./1993 <https://www.ohchr.org/AR/ProfessionalInterest/Pages/ViolenceAgainstWomen.aspx>

18. Crime prevention and criminal justice measures to eliminate violence against women issued by UN general assembly of 1997 <https://www.un.org/ar/ga/52/res/res52086.htm>

19. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women: was approved and presented for signature, ratification and accession under resolution of UN general assembly 4 fifty- fourth session dated 9 Oct. 1999, effective date on 22 Dec. 2000, as per provisions of Article 16 <https://www.ohchr.org/ar/ProfessionalInterest/Pages/OPCEDAW.aspx>

20. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementary to UN Convention against Transnational Organized Crime: was approved and presented for signature, ratification and accession under resolution of UN general assembly in fifty- fifth session of 2000, <http://hrlibrary.umn.edu/arab/P1orgCRIME.html>

21. Convention on the Rights of Persons with Disabilities: the convention and its optional protocol were approved and on 13/Dec./2006 at UN headquarter in New York, and it was opened for signature on 30/March/2007: <http://www.un.org/disabilities/documents/convention/convoptprot-a.pdf>

22. UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules): were approved by UN general assembly in its session 65 dated 21 Dec. 2010 <https://www.alkarama.org/ar/documents/qwad-alam-almthdt-lmamlt-alsjynat-waltdabyr-ghyr-alahtjazyt-llmjmat-qwad-bankwk>

In addition to these international and regional documents concerned with women's rights, UN Organization has held many international conferences. Some of them were also general but others were specific for women, starting with the first international conference held in Mexico in 1975. It called for emancipation of women. It also declared that the decade from 1976 to 1985 is the UN Decade for Women during which two other international conference were held. They are the second international conference in Copenhagen, Denmark 1980. It concentrated on the necessity to provide national guarantees in order to protect basic rights of women. As for the third international conference in Nairobi, Kenya in 1985, it witnessed "The Very Beginning of The Global Feminist Movement". Then, there was the fourth international conference in Beijing, China in 1995 which obliged to take all necessary measures to combat assaults on women's rights.

The World Conference on Human Rights in Vienna in 1993 considered women's rights as a part of human rights which are interdependent, inseparable and indivisible. In 2010, UN general assembly unanimously agreed on establishing a single United Nations Organization in order to be assigned to accelerate progress of achieving gender equality and women empowerment which is "UN Women", in addition to four international agencies and offices for women, represented in:

1. United Nations Development Fund for Women (UNIFEM).
2. Division of the Advancement of Women.
3. Office of the Special Adviser to the Secretary-General on Gender Issues.
4. Finally, the International Research and Training Institute for the Advancement of Women.



Third Chapter

Women's Rights According to International Law



Women's Rights According to International Law

International law recognized equal rights for women with men in all fields. The most important rights may be indicated, especially those mentioned in CEDAW which are:

01 Civil Rights

- Fifteenth Article of CEDAW accorded to women equality with men before law; enjoyment of legal capacity ensuring the same opportunity to practice that capacity through giving them equal rights of men in the field of concluding contracts and administering property. Women shall be treated on an equal basis with men in all stages of procedures followed in courts and tribunals; or with regard to law relating to movement of persons and freedom of choosing their residence and domicile.
- Sixteenth Article of this convention also obliges states parties thereto to abolish discrimination against women in family relations through ensuring equal rights of women and men with regard to entering into marriage and free choosing of spouse. Therefore, under this Article women shall have the right to marry with full and free consent. They shall also have the same rights and duties of men during marriage; upon its dissolution; and in assuming responsibilities related to their children. Furthermore, this convention protects mothers and their rights regardless of their family status, whether they are married or single mothers. Under this Article, culture and traditions are targeted as influential forces regarding formation of stereotypical roles of men and women, as well as family relations, as indicated later.
- In addition, Ninth Article of this convention obliges states parties thereto to ensure equal rights of men and women related to acquiring, changing or retaining their nationalities and nationality of their children.

02 Political Rights

- Seventh Article of CEDAW which imposes on states parties thereto all appropriate measures to eliminate discrimination against women in political field determined their rights as follows:
 - To vote in all elections and public referendums; and to be eligible for election to all publicly elected bodies,
 - To participate in the formulation of government policy and the implementation thereof; to hold public offices; and performing all public functions at all levels of government.
 - To participate in any non- governmental organizations and associations concerned with public and political life of the country.
- Article 8 of this convention also guarantees women "the opportunity to represent their government at international level and to participate in the work of international organizations".
- In order to ensure real participation of women, and to accelerate de facto equality, Article 4, paragraph 1 of CEDAW allows special and temporary measures to be taken which may be in the form of adopting "quota" system as it states the following: "adoption by states parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards. These measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved".

03 Non-discrimination Rights

- Second Article of CEDAW states to embody the principle of the equality in constitutions and legislations, and to ensure practical realization of this principle through law and other appropriate means. It also states to adopt appropriate legislative and other measure, including sanctions, where appropriate, prohibiting all discrimination against women. It states to establish legal protection of the rights of women on an equal basis with men, and to ensure through competent national tribunals and other public institutions of the country the effective protection of women against any act of discrimination. It states to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. In addition, it states to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women; and to repeal all national penal provisions which constitute discrimination against women.
- Fifth Article also states that states parties shall take all appropriate measures to achieve the following: "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women.
- In addition, to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases".

04 Right to Work

- 11 Article of CEDAW states that "states parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights.
- This includes the right to free choice of profession and employment; the right to the same employment opportunities; the right equal remuneration; the right to social security.
- The convention also requires states to prohibit dismissal from service due to pregnancy or maternity leave; and to provide special protection for women during pregnancy period from works that may cause harm to them.

05 Right of Education

- CEDAW states in its Tenth Article that every state shall take all appropriate measures to eliminate discrimination against women; and ensure to them equal rights with men in the field of education. In addition, it states to eliminate any stereotyped concept of the roles of men and women at all levels and in all forms of education. Same opportunities shall be provided to benefit from scholarships and to participate in activities.

06 Right of Health

- Article 12 of CEDAW states that states shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.
- The convention also stated that challenges which rural women face in the field of health shall be observed. Procedures shall be taken to ensure that women have access to adequate health care.

07 Cultural Rights

- CEDAW, in many of its Articles, has given women equal rights with men in the field of culture. The convention stated to provide the same opportunity to participate in sports activities, and all aspects of cultural life.
- In addition, it stated equality with men in participating in all societal activities.

23. Manual on Women's Economic, Social and Cultural Right
https://www.escr-net.org/sites/default/files/claiming_womens_escr_manual_excerpts.pdf

08 Right of Marriage and Family

- It includes the right to freely choose spouses, and the right of equality with men with regard to contracting marriage, including transmission of their nationality to their children. It also includes the right to dissolve contract; and the right of family benefits; as well as the right of judicial and administrative procedures, ownership, and inheritance of properties. In addition, it includes the right to estimate the number and spacing of children, as well as the same personal rights like family name.
- It also includes the necessity to provide special protection for mothers before and after childbirth. Family laws, including those related to the care and custody of children, marital powers, and stereotypical perceptions of men and women roles, shall not be imposed.
- Conventions of women's rights also include a number of other rights such as the right of housing, food, drinking water, and others.
- In addition to rights, international law has created a set of principles and obligations of equality between men and women, including:²³

Fundamental Equality

- It means that responsibility of states is not only to eliminate discrimination, but also to take positive steps to address past and structural discrimination that goes beyond scope of laws, in a way that exceeds formal legal equality to fundamental or actual equality.
- Therefore, approaching fundamental equality obliges states to recognize the actual impact of policies and practices on women, and to take positive measures in order to ensure women equality regarding provision and entitlements. It includes comprehensive economic and social policies and programs taking into consideration the varied needs and conditions of women.
- Means of achieving fundamental equality include taking special temporary procedures or measures to eliminate discrimination, and it shall be applicable until equality is achieved.

Respect, Protection and Implementation

- It means that states shall have an immediate obligation to respect and protect all human rights, and to refrain from discriminatory procedures that directly or indirectly results in denying the right of equality between men and women. Respect of such right means that states shall not approve or amend laws; and revoke policies, measures and programs which negatively affect equality of women to enjoy the same rights.
- It also means that states are obliged to take steps aiming at eliminating aspects of prejudice, as well as stereotyped roles of women and men; and to establish institutions to protect women from discrimination. In addition, behavior of actors like private sector shall be monitored and organized in order to ensure equality right. Moreover, there shall be commitment to obligation what means taking specific and meaningful steps including setting action and implementation plans, in addition to several principles like non-retrogression, and ensuring minimum commitment.

Fourth Chapter

Women's Rights in Syria before the Conflict



Women's Rights in Syria before the Conflict

Syria was among 48 countries which voted in favor of adopting the Universal Declaration of Human Rights. It also ratified the two international covenants, and the Convention on the Rights of the Child. It also ratified CEDAW after reservation to several articles which are:

- Reservation to paragraph (b) of the Second Article related to taking legislative measures in order to prohibit all discrimination against women as some provisions of Syrian laws allow some forms of justifiable discrimination for reasons basically related to Islamic law.
- Reservation to Second Clause of Ninth Article which states to provide women a right equal to that of men with respect to nationality of their children.
- Reservation to Fourth Clause of Fifteenth Article which provide men and women the same rights with regard to law relating to movement and freedom to choose residence and domicile.
- Reservation to Sixteenth Article related to taking all measures to eliminate discrimination against women in matters related to marriage and family relations.

Syria has reserved to clauses of First Paragraph of the Article which are as follows:

1. Clause (c) related to giving women the same rights and responsibilities during marriage and at its dissolution.
2. Clause (d) related to giving them the same rights as parents, irrespective of their marital status in matters relating to their children.
3. Clause (f) related to giving them the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children.
4. Clause (g) related to giving the same personal rights as husband and wife, including the right to choose a family name, a profession, and an occupation.

In addition to reservation to the Second paragraph of Sixteenth Article in which the following was stated: "The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory".

- Finally, reservation to Twenty- ninth Article which requires that disputes arising between states parties concerning the interpretation, or application of the convention shall be submitted to arbitration.

With reference to Syrian legislations to identify gender gaps, and issues of equality between men and women, we can identify the most important of them which are:

01 Nationality Law

- It was stated in Third Article of Nationality Law "anyone born inside or outside the country to an Arab Syrian father shall be legally considered an Arab Syrian person"
- Thus, this law legally gives nationality to children of a Syrian man. On the other hand, it deprives woman of this right and gives her the right to give her nationality to her child in a special case which is "anyone who was born in the country to an Arab Syrian mother and he was not legally lineal descendant of his father".²⁴

24. Syrian Nationality Law promulgated under Legislative Decree No. 276 of 1969
https://menarights.org/sites/default/files/11-2016/SYR_NationalAct1969_AR.pdf

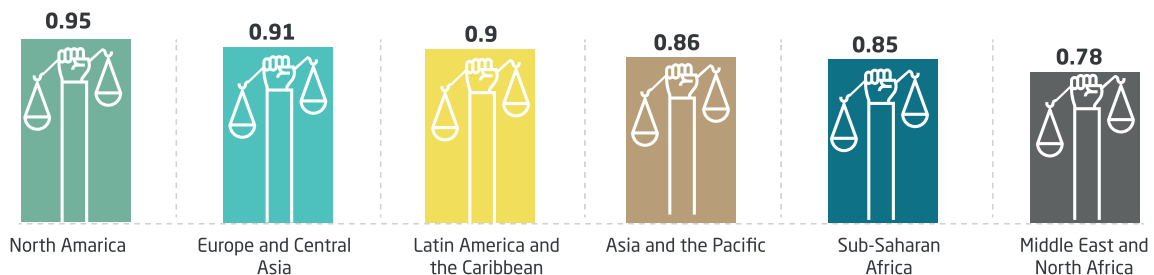
02 Penal Code

- There are several legal rules which discriminate between women and men in the Penal Code. With regard to crime of adultery, a married female adulterer shall be punished in all cases, while man shall be punished if he commits the act of adultery in matrimonial home.
- On the other hand, Penal Code does not state a punishment for (marital rape), as Article 489 stated that “whoever compels any person who is not his spouse under violence or threatening to have sexual intercourse shall be punished by hard labor for at least fifteen years”
- In addition, Article 508 gives criminal regarding crimes of rape, obscenity, kidnapping, seduction, and indecency exemption from correctional penalties with commutation criminal penalty in case of marrying his victim.²⁵

03 Personal Status Law

- No doubt that there are many gender gaps in Personal Status Law, and contradiction with the international conventions. This is a complicated issue because Personal Status Laws in Syria are based on religions whether Personal Status Law that is based on Islamic Law, Christian sects, or other.
- Gender gaps are obvious in many issues such as guardianship, warship, testimony, inheritance, unilateral divorce, and many other details.²⁶
- Practically, gender gap in laws was not the only reason for women discrimination in Syria. There is a system of traditions, customs, and norms which directly affected women's rights and very much exceeded issues of legal wordings. For example, although agricultural lands are Miri lands what means that women shall inherit like man, in practice, the percentage of women ownership does not exceed %10 of agricultural lands. This indicates that there are issues regarding inequality which are related to society and they were increased by economic system based and controlled by men.
- These issues go beyond Syrian borders as we find that indicators of region in general are low in terms of equality between men and women.
- Arab Women Development Report of 2015 issued by Center of Arab Women for Training and Research indicated to indicator of gender gap of World Economic Forum which shows that our region is at the lowest rank of the world in terms of gender equality.²⁷

Figure (1) Gender Equality within the regional performance.



25. Syrian Penal Code
<http://www.undp-aciad.org/publications/ac/compendium/syria/criminalization-lawenforcement/sy-penal-code.pdf>

26. Syrian Personal Status Law
<http://parliament.gov.sy/arabic/index.php?node=201&nid=11333&ref=tree&>

27. Arab Women Development Report of 2015 issued by Center of Arab Women for Training and Research.
https://www.arabstates.undp.org/content/rbas/ar/home/library/Dem_Gov/CAWTAR_report.html

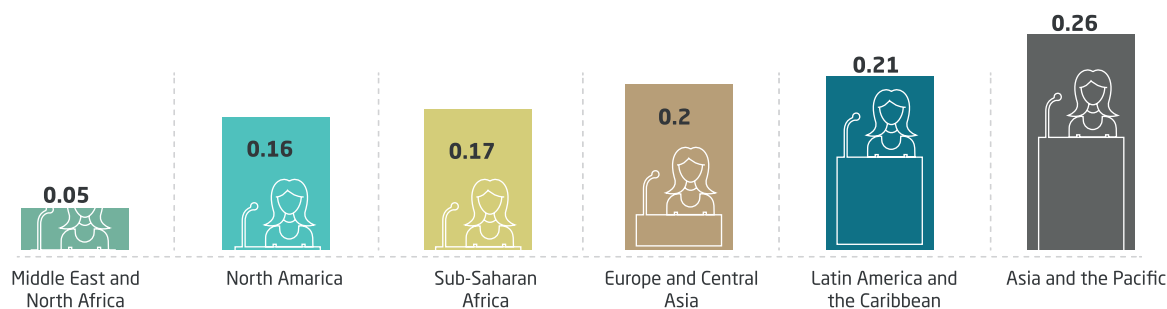
According to the same report, we see that Syria is at the bottom of the table with regard to gender equality compared to countries of the Arab region:

Table (1) Schools assessed according to the security situation (shelling and clashes)

Country	Performance	Rank
United Arab Emirates	0.6372	109
Kingdom of Bahrain	0.6334	112
State of Qatar	0.6299	115
State of Kuwait (26)	0.6292	116
Hashemite Kingdom of Jordan	0.6093	119
Sultanate of Oman	0.6053	122
Republic of Lebanon	0.6028	123
Algeria	0.5966	124
Republic of Egypt	0.5935	125
Kingdom of Saudi Arabia	0.5879	127
Kingdom of Morocco	0.5845	129
Republic of Mauritania	0.5810	132
Syrian Arab Republic	0.5810	132
Republic of Yemen	0.5128	136

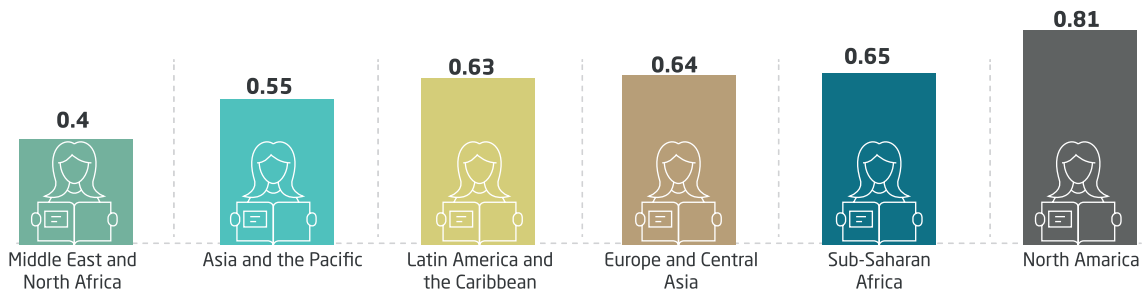
Concerning political empowerment, we find that Arab region is also at the bottom of the world order:

Figure (2) Regional performance of the political empowerment sub-indicator.



And With regard to educational attainment, Arab region is also at the bottom of the world order:

Figure (3) Sub-indicator of educational attainment.



With reference to Syrian reality before the revolution, talking about women's rights might be a luxury as the concept of rights of all types is absent in Syrian society. When talking about political representation, it is not the number of women in People's Assembly that matters as long as this People's Assembly does not represent electoral will of Syrians. The regime even used women's rights as a means; for example, issuing a legislation that prevents the establishment of feminists' civil society organizations under the pretext that there is women's union which protects women's rights so that such union would be a means that revolves around the sphere of one-party.

In all cases, Syrian women have suffered from the tyranny of regime and society in an environment which seeks to ignore, impoverish and weaken them. Despite of the important efforts which were exerted by feminist activists and those who support their ideas, they always struggled with societal and cultural obstacles that affected even women themselves who were sometimes against women's rights.

fifth Chapter

Status of Women's Rights in Areas outside Regime Control



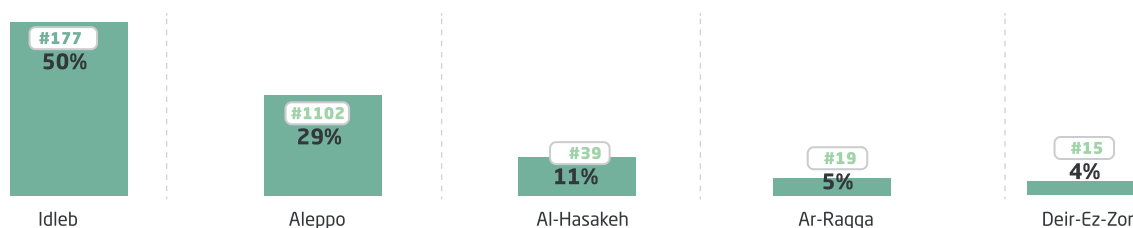
Status of Women's Rights in Areas outside Regime Control

01 Regarding Questionnaire

A questionnaire was conducted regarding women status in areas outside regime control in order to determine some indicators related to women's rights. The questionnaire was implemented in areas outside regime control whether those under authority of Salvation Government, the so-called Syria Democratic Forces, or Interim Government.

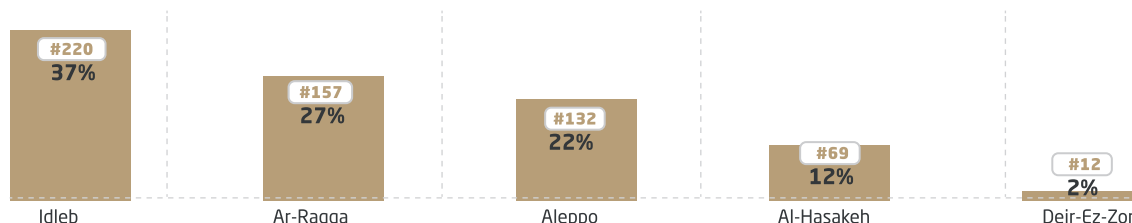
The questionnaire included 352 of males distributed according to the following table:

Figure (4) Males included in the study.



The questionnaire also included qualitative sample of women that included 590 women distributed according to the following table:

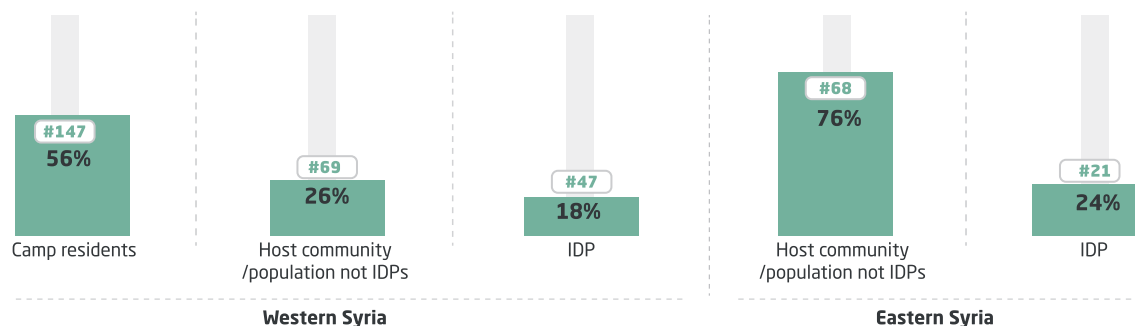
Figure (5) Women included in the study.



As for sample distributed between host community and displaced males, it was according to the following table:

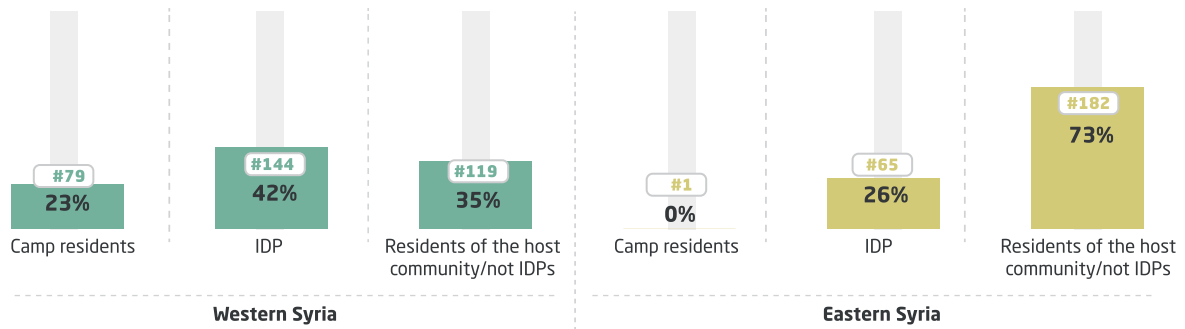
The questionnaire included 352 of males distributed according to the following table:

Figure (6) The sample is distributed between the host community and IDPs among males.



Sample is distributed between host community and displaced women, it was according to the following table:

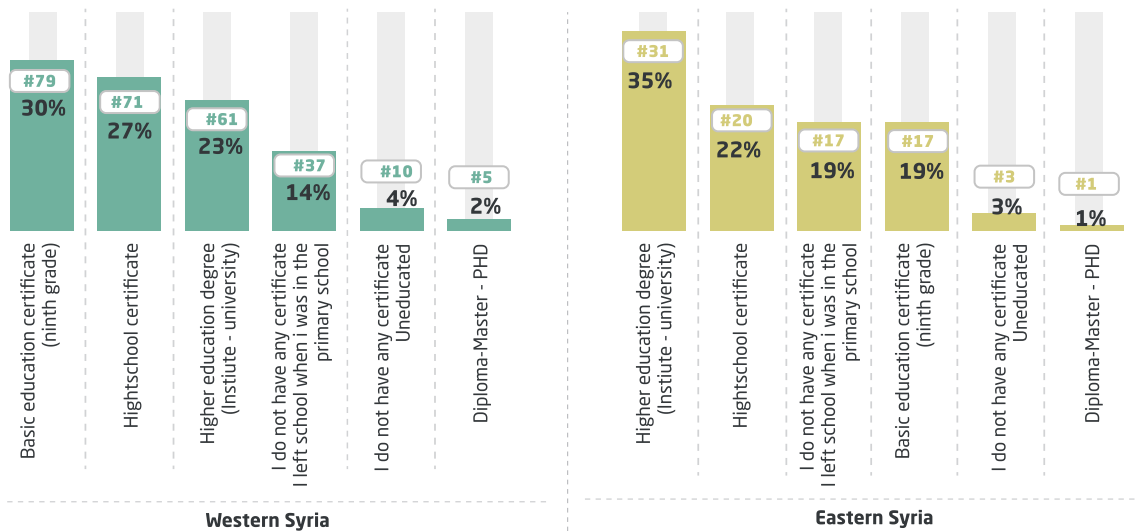
Figure (7) The sample is distributed between the host community and IDPs among women.



As for academic degree, it was according to the following tables taking into consideration that the questionnaire included qualitative sample of women in terms of societal activity as the questionnaire tackled participation in political life. We noticed this through educational level of the women sample.

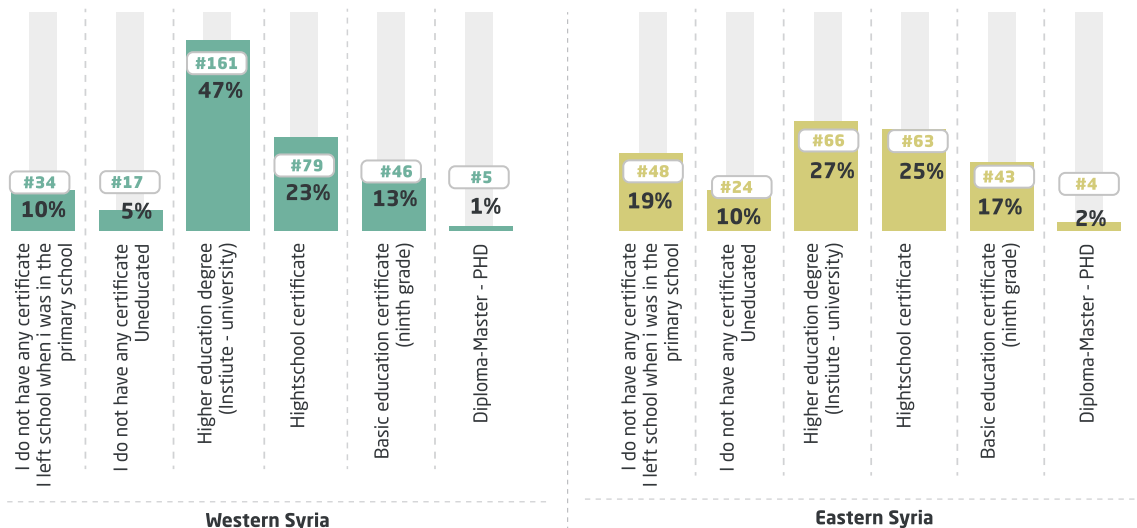
It was regarding men:

Figure (8) Educational achievement of men.



As for women:

Figure (9) Educational attainment of women.



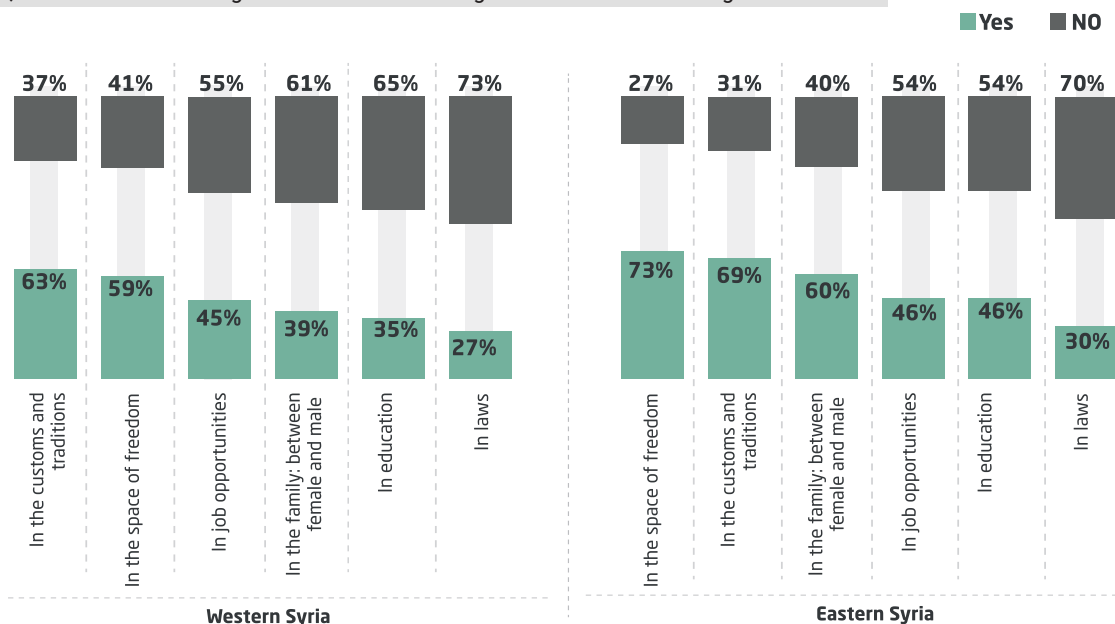
Some indicators were determined according to the following:

Regarding discrimination between women and men

A question was asked in the questionnaire to men and women while determining reasons of discrimination. According to men, it was that there is negative discrimination against women whose percentage was more than %70 regarding customs and traditions, as well as freedom space, while percentage of job opportunities was %45.

As for discrimination in family, percentage was %39 in western Syria, and it increased up to %60 in eastern Syria. With regard to education, discrimination percentage was %35 in western Syria, and it increased up to %46 in the east.

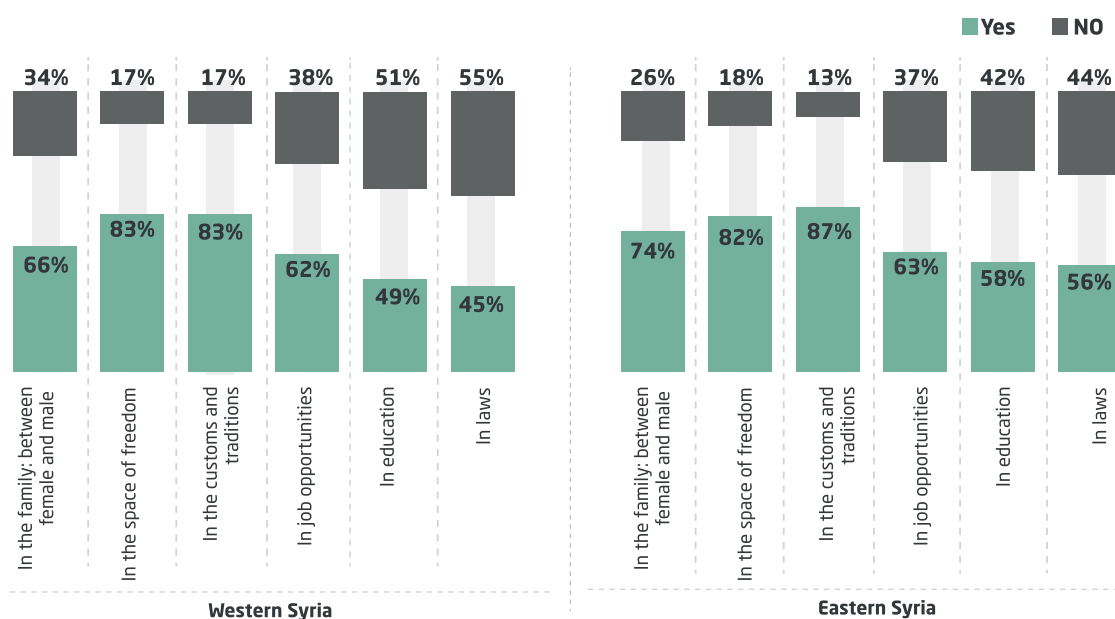
Figure (10) The existence of negative discrimination against women according to the males.



When asking women the same question, we find that percentages increased. Discrimination percentage regarding customs and traditions, as well as freedom space was between 80 to %90 in all areas. Discrimination percentage in family also increased up to %66 in western Syria, and %74 in the east.

Percentage also increased with regard to discrimination of education and laws to more than %50.

Figure (11) The existence of negative discrimination against women according to women.

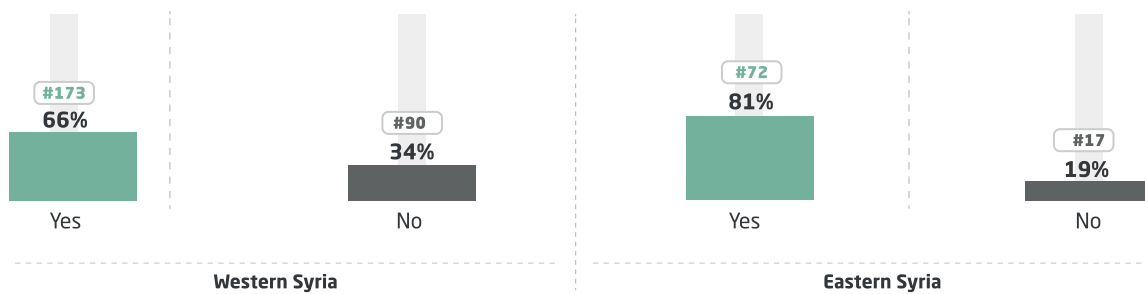


According to these indicators, we find that percentages of negative discrimination against women are very large. It is shown that their reasons go beyond legal framework. They rather increase due to customs and traditions. Negative discrimination extends even within family between sons and daughters. This indicates that discrimination problem is basically a societal problem before it is political or legal problem.

Right of Nationality:

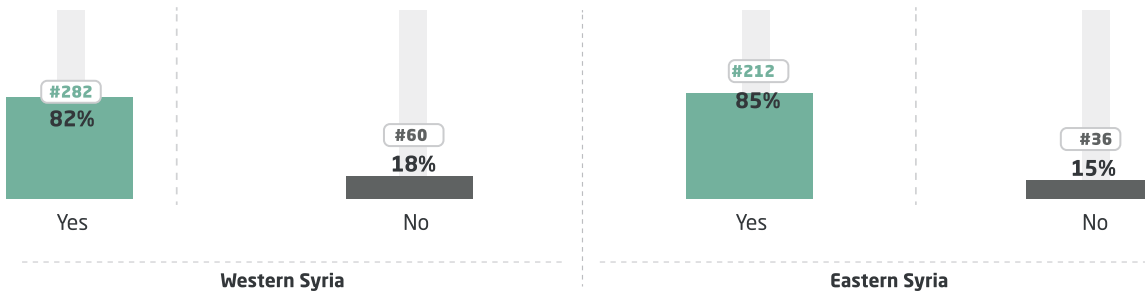
Men were asked about their opinion regarding women's right to give her nationality to her children in case she is married to a non- Syrian person. Answer percentages supported giving her nationality to her children with a percentage of %66 in western Syria, and it increased up to %81 in the east.

Figure (12) The right of woman to pass on her nationality to her children if she gets married to a non-Syrian according to males.



When asking women the same right, answer supported her right to give her nationality to her children with a percentage of %82 in western Syria, and percentage increased up to %85 in the east.

Figure (13) The right of woman to pass her nationality to her children if she gets married to a non-Syrian, according to women.

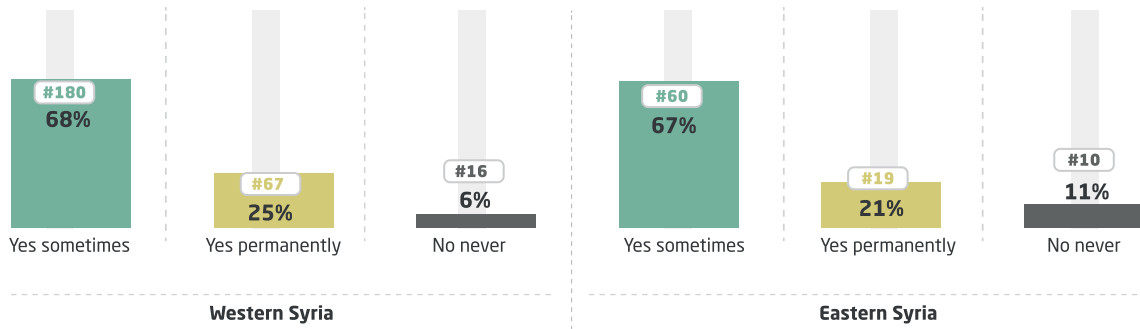


The benefit of these percentages is that discrimination problem is related to women themselves. Discrimination severity is mitigated when talking about children. We find that percentage of those who support this right among males is more than %75 which is a high percentage. It shall be taken into consideration that there is a percentage of women themselves who think that they do not have the right to give their children their nationality with a percentage of approximately %17.

Right of Education

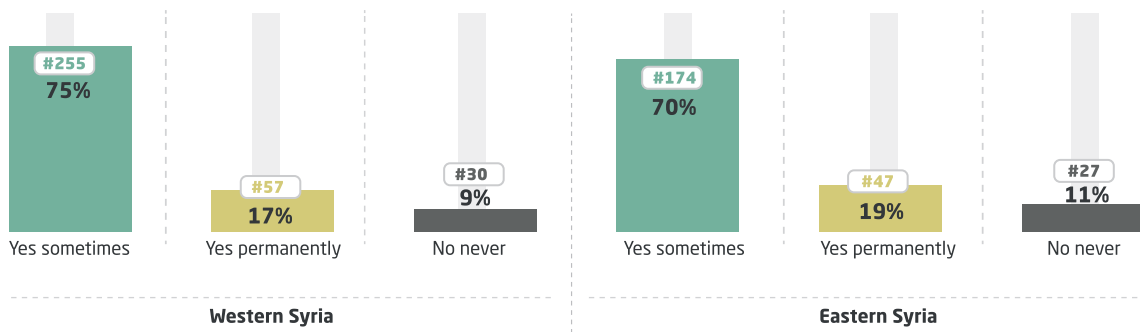
In order to determine the extent to which gender gap exists regarding education right among males and females. A question was asked about the extent to which women have the same right as males to be educated. Percentages of men were according to the following:

Figure (14) Women have the same right as males to education according to the males.



On the other hand, percentages of women were as follows:

Figure (15) Women have the same right as males to education according to women.



We notice that percentages are close regarding answers between men and women in terms of education gap. It is also noted that the gap exists.

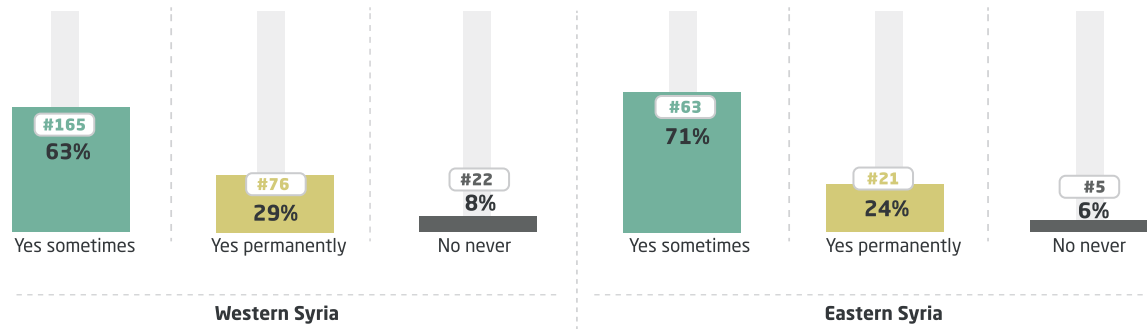
Right of Education

In order to determine the extent to which women has the right to choose a husband, this question was asked to men and women. Percentages were close. It is noted that answer which imply that they permanently have the right ranges between 20 and %30, while the highest percentages were that this right is sometimes available.

The benefit of this is that there is still a societal problem which detracts from women's rights regarding their most important choice which is their right to choose their husbands.

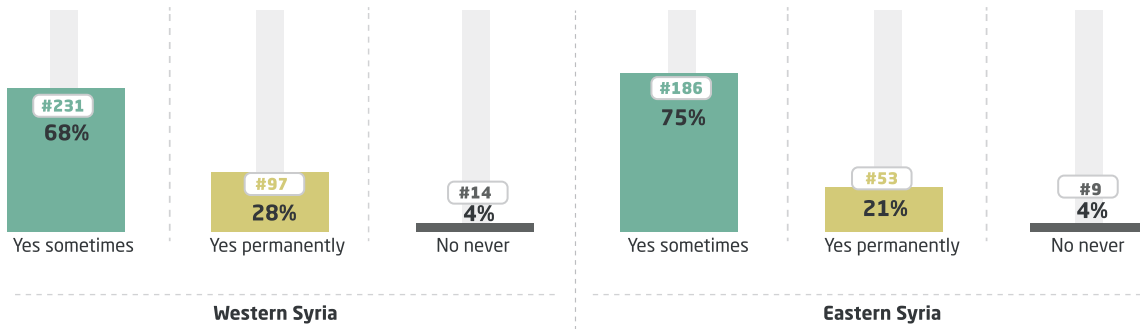
Percentage of men was:

Figure (16) The right of woman to choose her husband according to males



While that of women was:

Figure (17) The right of woman to choose her husband according to women.



Cultural and Social Rights

One of the women rights recognized by international conventions is equality with men regarding cultural and social rights. A question was asked about the extent to which women are allowed to participate in social and cultural activities. Answers were close whether between men and women, or in areas between eastern and western Syria.

It is noting that there is negative discrimination against women regarding this right as the percentage of permanent availability of this right was around %10 only.

Figure (18) The extent to which women are allowed to participate in societal and cultural activities according to males.

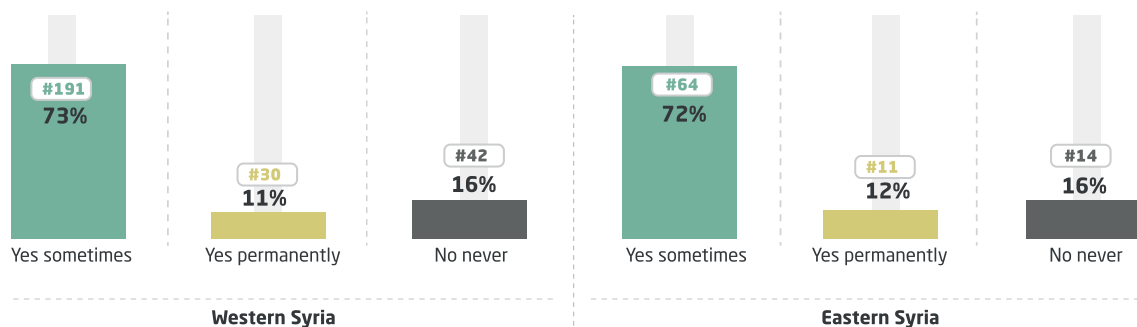
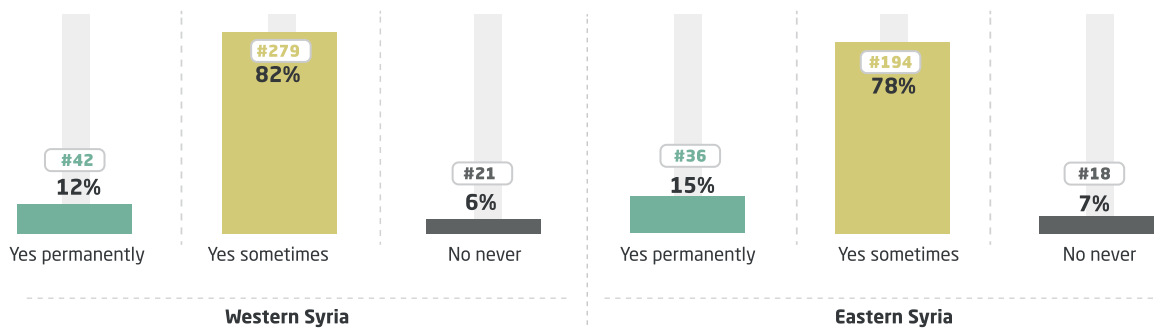


Figure (19) The extent to which women are allowed to participate in societal and cultural activities according to women.

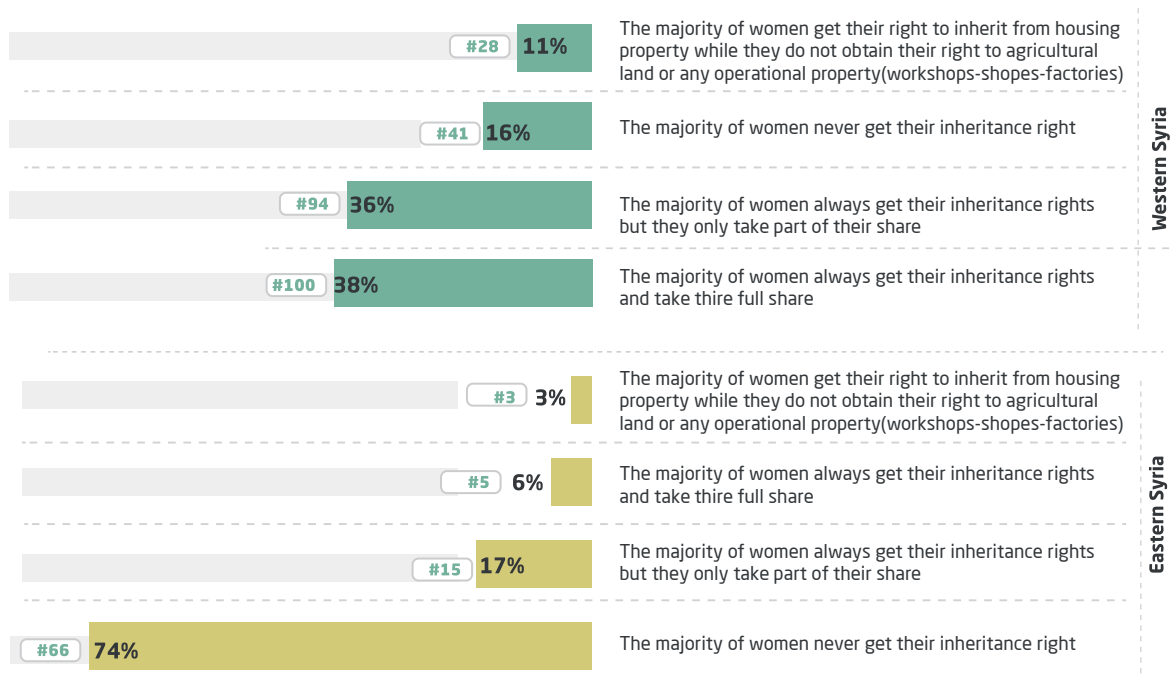


Women's Right to Inherit

Although there is a gender gap regarding legal framework regulating inheritance right as it is based on provisions of Islamic Law, question was whether women obtained their portion of inheritance or not. In order to measure whether gender gap is related to law, or it is socially expanding and increases negative discrimination against women.

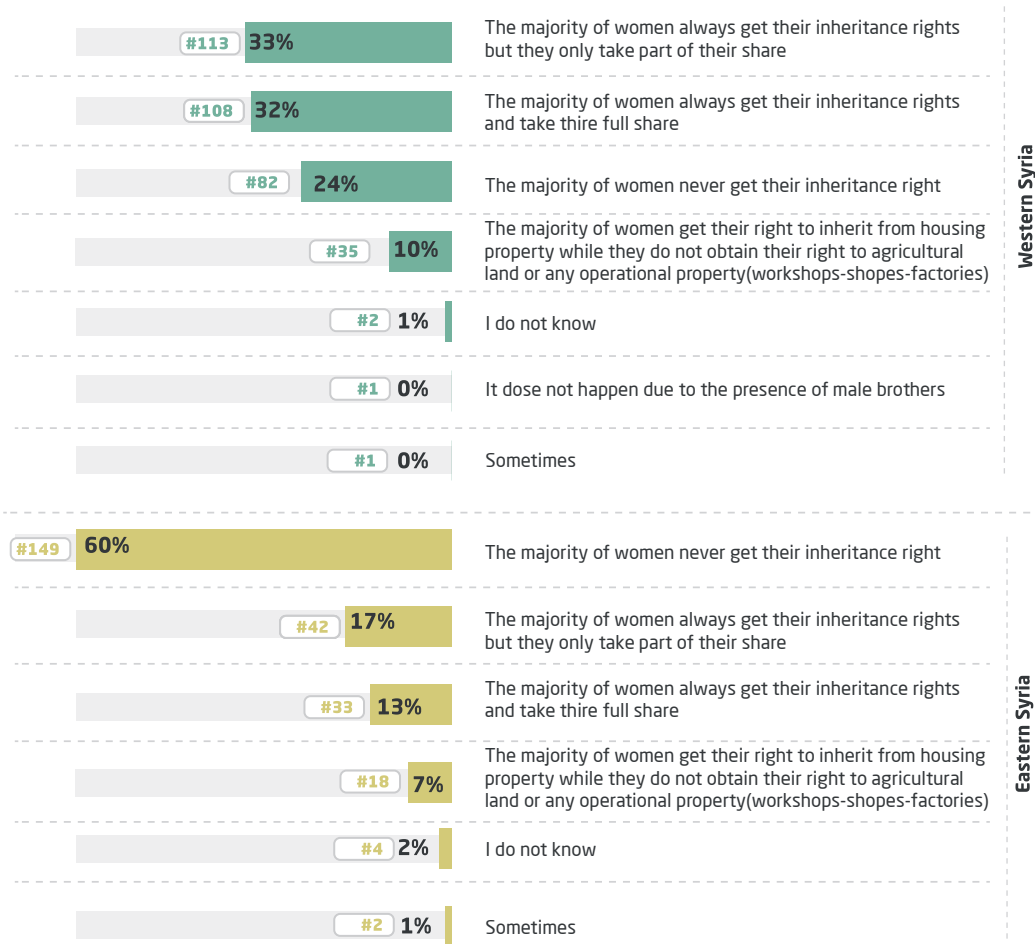
Through answers of men to this issue, we find that there is a significant gap regarding women obtaining their inheritance rights. Percentage of women who obtain their full portions of inheritance was %38 in western Syria, and it decreases to a percentage of %6 in eastern Syria. Through these percentages, we find that there is a significant gap regarding women obtaining their inheritance rights. In addition, societal impact on this issue is shown through difference of percentages between eastern and western Syria.

Figure (20) A woman gets her inheritance right according to the males.



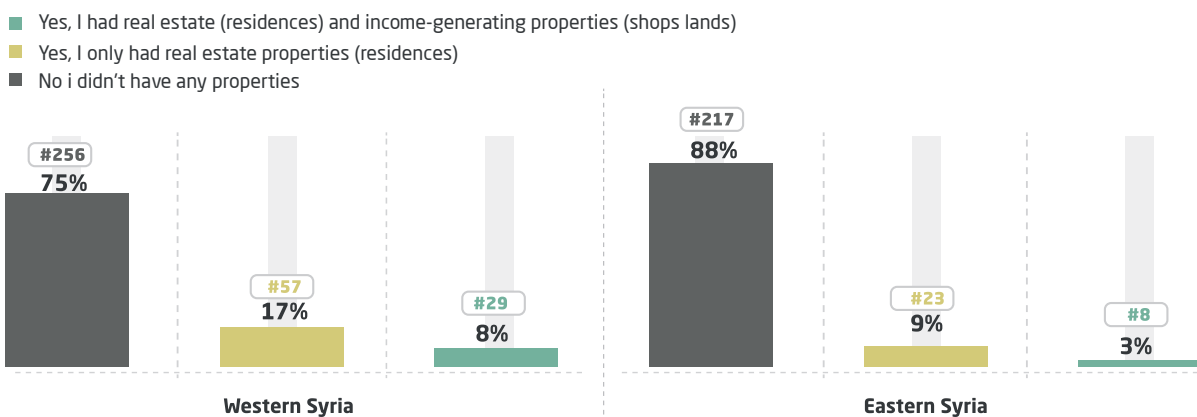
When asking women about this issue, we find that percentages were close to men questionnaire as a percentage of %32 of women answered that they obtain their full rights of inheritance in western Syria. Percentage decreases to %13 in eastern Syria.

Figure (21) woman gets her inheritance right according to women.



In order to make sure of these percentages, women were asked whether they have established properties before conflict. Percentage was %75 of women who did not have any properties in western Syria. It increased up to %88 in eastern Syria.

Figure (22)The presence of proven properties before the conflict for women.



These overall indicators show that there is negative discrimination towards women's rights which includes all rights and in all areas.

02 Regarding the Reasons of Gender Gap, and Impact of Conflict on Women's Rights

Women's rights are not separate from system of human rights. They rather integrate with it. women's rights are directly enhanced when the system of human rights is enhanced.

In Syria, talking about rights is considered a kind of intellectual luxury in light of the existence of an oppressive, dictatorial regime under which all rights are completely absent what resulted in absence of human rights culture.

Reasons of gender gap can be shown by two determinants:

Totalitarian Regime

Totalitarian regime lives in the environment of tyranny and avoidance of human rights concepts what leads to absence of culture of importance and practice of such rights. Collapse of human rights system leads to collapse of women's rights system. On the other hand, totalitarian regime is, by nature, a patriarchal regime which is based on army and security forces whose members are males. This contributes to restricting power to hands of men.

This attitude, as well as its application are reflected on society in all of its details starting from state up to family. Culture of tyranny and oppression is transmitted; as oppressed man cannot find a place to compensate this except by oppressing somebody weaker than him, who is woman.

In light of totalitarian regime, people do not have elected institutions. Thus, no legislations representing him are issued. This leads to the fact that Peoples' Assembly represents the regime. Hence, this allowed patriarchal concept to be perpetuated through laws which were not developed although system of women's rights was internationally developed.

Customs and Traditions

A deep- rooted patriarchal culture was established in region and religious discourse contributed to enhancing it. A system of customs and traditions was established by men to be his means to dominate women and their rights. Over time, this culture was transferred to women themselves who sometimes stood against women's rights. Despite the spread of this system throughout Syrian land, it differs from one area to another according to its local customs and traditions. Therefore, we found through the questionnaire differences between eastern and western Syria.

As for the impact of conflict of women's rights, women suffering increased a lot during years of conflict. At the beginning, regime treated revolution with extreme brutality. It used all methods to suppress it. In addition to its traditional means like, arrest, torture, and extrajudicial killing, it used women as political and military means. Violence against women aimed, in addition to revenge on them for their opposition, at achieving military and political gains through pressure on its opponents, whether to restrain the revolution; to request people to surrender; or to create societal problems which help it to suppress the revolution.

The regime used sexual violence as a crime against humanity on a large systematic scale. The regime also used it as a war crime after outbreak of armed conflict. Reports documented this approach which was adopted by the regime over the past ten years.²⁸

28. Report titled "I Lost my Dignity" issued by the Independent International Investigation Committee in Syria
https://www.ohchr.org/Documents/HRBodies/HRCouncil/ColSyria/A-HRC-37-CRP3-_AR.pdf

Patriarchal culture has contributed to increasing women suffering. When men were released from detention, they were treated as heroes, while women were followed by a societal stigma as if they were the guilty ones.

Women suffering was also increased by bearing family burden while man is absent, especially that many men were lost as a result of enforced disappearance and killing, as well as its suffering related to forced displacement.

In addition, emergence of radical movements directly affected restriction of women's rights through this conflict as women paid the price of weapons that are used by men in the war at the expense of their rights and freedom.

Although the revolution called for freedom and dignity, its practical application narrowing the gap between women and men did not appear. There was no actual removal of prevailing perceptions regarding men superiority and eligibility to lead women.

This was not only within areas which lived through war, we found it everywhere. Its impact extended to Syrian opposition so that women found themselves outside real representation in local councils, political entities, and other, except for exceptional cases.

For example, during formation of Constitutional Committee in 2019, although UN required both parties of the committee (regime and opposition) that percentage of women representation shall not be less than %30, opposition presented only seven women in its delegation which included fifty members so that its women percentage was %14. Such percentage is less that women representation in the regime delegation which was %22.



Conclusion and Recommendations

Women's rights are fundamental rights which are associated with their humanity. Neither men nor society has the right to deprive them of such rights; without these rights, there will be no just society. Human rights are indivisible. No part of society can claim its rights while depriving women of their rights at the same time.

Existence of negative discrimination against women whose severity increased during conflict years, while raising slogans of freedom and dignity, and the pursuit to make Syria a democratic state that respects human rights make it the responsibility of all male and female Syrians to advance women's rights and achieving positive discrimination to bridge the gap which has extended for long decades.

Recommendations

- Recognition of full rights of women in various fields, and their right to practice such rights.
- Syrian State shall ratify all conventions of women's rights.
- New constitution shall ensure gender equality and ensure that international conventions are higher than laws.
- Amending nationality law so that Syrian women shall guarantee their right to give their nationality to their children.
- Amending laws in order to ensure that women fully access their rights.
- Ensuring positive discrimination for women during next phase until they obtain their rights through women quota of not less than %30 in all representative and executive positions.
- Amending educational curricula so that any stereotypical role of women would be cancelled, or to affect women's rights. There shall be human rights curriculum implying women's rights.
- Violence against women shall be combated so that criminalization of any violence against women would be ensured.
- Community awareness of women's rights shall spread. Work of organizations and initiatives concerned with women's rights shall be encouraged.
- Women shall be economically empowered through providing job opportunities, ensuring equal pay with men, and ensuring that women's privacy is taken into account especially before and after childbirth.
- Creating special institutions to monitor violations against women.
- Ensuring accountability for violations occurring Syria, especially in relation with sexual violence.
- Transitional justice program shall include reparation for women.
- Housing restitution program shall include women's right to access matrimonial house regardless of ownership.
- Ensuring that aids reach women, which shall meet their special needs.

Women's Rights
between Law and Reality
within Areas outside
Regime Control
2 0 2 1

April 2021

Women's Rights between Law and Reality within Areas Outside the Syrian Regime Control



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