

The Urgent Need for A Comprehensive Legal Framework to Combat Violence against Women and Girls in Syria

THIS POLICY BRIEF HAS BEEN PREPARED IN COOPERATION BETWEEN
EUROMED FEMINIST INITIATIVE (EFI), REGIONAL OBSERVATORY ON VIOLENCE
AGAINST WOMEN AND GIRLS (VAWG) AND EQUAL CITIZENSHIP CENTRE (ECC)



POLICY BRIEF

The Urgent Need for A Comprehensive Legal Framework to Combat Violence against Women and Girls in Syria

This publication has been produced with the financial support of the Swedish International Development Cooperation Agency (Sida). The content of this document is the sole responsibility of EuroMed Feminist Initiative (EFI), the Regional Observatory on VAWG and Equal Citizenship Centre (ECC) and can under no circumstances be regarded as reflecting the position of Sida.

EuroMed Feminist Initiative (EFI) is a policy platform that provides expertise in the field of equality between women and men and advocates for women's human rights as inseparable from democracy building and citizenship, for political solutions to all conflicts, and for the right of people to self-determination.

The Regional Observatory on Violence against Women and Girls (VAWG) was established as an independent mechanism to follow up on laws and policies related to combating VAWG and support the implementation of the Union for the Mediterranean (UfM) Ministerial Declarations. The Observatory is established and hosted by EuroMed Feminist Initiative (EFI) in Amman.

Equal Citizenship Centre (ECC) is a non-governmental human rights centre that works to promote a culture of citizenship, human rights, and women's rights in Syrian society as per international legal and human rights instruments.

Table of content

SUMMARY	03
WHY COMPREHENSIVE LAW ON COMBATING VIOLENCE AGAINST WOMEN AND GIRLS IS A PRIORITY IN SYRIA?	04
THE GOVERNMENT'S OBLIGATIONS TO ELIMINATE VIOLENCE AGAINST WOMEN AND GIRLS IN SYRIA	06
- The Convention On The Elimination Of All Forms Of Discrimination Against Women (CEDAW)	06
- The Beijing Declaration And Platform For Action	08
DISCRIMINATION IN LEGISLATION PERPETUATING VIOLENCE AGAINST WOMEN AND GIRLS	09
REFORMING THE LEGAL FRAME REGARDING COMBATING OF VIOLENCE AGAINST WOMEN AND GIRLS	12
RECOMMENDATIONS	16

Summary

Discriminatory provisions against women exist in different Syrian laws, related to both family and public life. Though Syrian Constitution articles stipulate for equality between women and men citizens¹, double legal standards persist, which further perpetuates discrimination and violence against women and girls (VAWG).

This policy brief sheds light on why combating VAWG in Syria is priority and indicates to the fundamental elements required to prevent and combat such violence in a comprehensive manner, and as a part of an urgent legal reform process to improve the status of women and women's rights in Syria.

The brief is based on the outcomes of studies conducted by Equal Citizenship Centre (ECC) between 2017 and 2021, as well as of consultative discussions held between -2021 2023 during several expert roundtables that gathered over 35 Syrian legal experts and 40 gender and women's rights experts from over 20 civil society organisations (CSOs) working on combating VAWG in Syria.

They have analysed the status of women in the national legislation and public policies with a purpose to come up with informed recommendations to all actors and stakeholders who work on combating VAWG in Syria and wish to contribute to change.

The brief recommends reforming the legal framework that hinders equal rights to women and girls. Elimination of discriminatory articles in the national laws, specifically those in the Personal Status Law, Penal Code, Nationality Law and even in the Labour Law and Social Security Law is a necessary first step for preventing and combating VAWG.

The policy brief calls for the adoption of a comprehensive law that combats all forms of VAWG in accordance with United Nations (UN) legal instruments and explains the required elements of such a law: prevention, protection, remedy for women victims, prosecution of perpetrators as well as information gathering and cooperation among all concerned parties.

¹-Article 33, Paragraphs 3 and 4 of the Syrian Constitution 2012 stipulates that: "citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed, and that the State shall guarantee the principle of equal opportunities among citizens. Article 23 declares that "The State shall provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life, and that the State shall work on removing the restrictions that prevent their development and participation in building society."

Why comprehensive law on combating Violence against Women and Girls is a priority in Syria?

Although violence against women and girls is a global problem, in Syria, as in some other countries in the South Mediterranean region, it combines discriminative legislation, poor legal protection for victims and deeply rooted stereotypes.

Legal discriminatory practices reinforce social conservative norms and perpetuate stereotypes and wide social acceptance of VAWG.

Moreover, VAWG has exacerbated during the armed conflict, leaving women and girls without protection and further exposing them to inequalities and abuse both de jure and the facto. These include, for example, sexual violence, lack of access to services and protection, unequal distribution of inheritance, limited access to housing and property, lack of right to custody of children and giving them their nationality.

In the absence of a specific law on VAWG, this violence goes under the Penal Code's general provisions that deal with the punishment for causing injury to another person (Articles 542 ,541 ,540, and 543).

Domestic violence is seen as a “family matter” when VAWG is exercised at home, which makes these articles of the Penal Code rarely used to prosecute it.

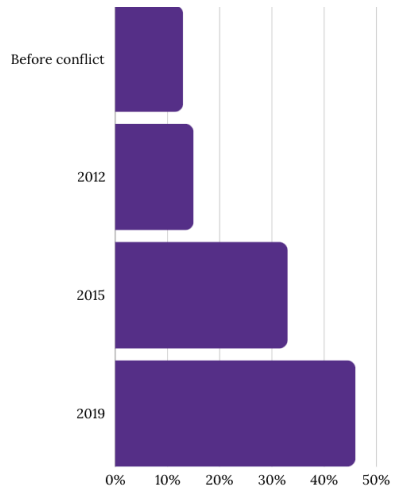
According to women’s rights activists, services for women victims are extremely insufficient: shelters are just few, and provision of psychosocial support and legal aid is scattered. Because of the lack of resources and legal counselling, even women who might be willing to speak up publicly about VAWG might not know how to pursue legal remedies [1]. Furthermore, there is no specific directorate under police for dealing with VAWG or domestic violence. The public statistics and data on VAWG are limited and not issued regularly.

There is data on some forms of VAWG issued by several governmental institutions including the Syrian Commission for Family and Population Affaires (SCFPA). Even when statistics exist, it is well known that the actual number of VAWG cases is much bigger than the surfaced ones due to different reasons, among them, victims are incapable of accessing justice and police, or they keep silent because of fearing being stigmatised or shamed.

VAWG cases increased during the Syrian armed conflict, and violence became a lifestyle that women in our Syrian society suffer from on a daily basis. This violence is perpetrated based on justificatory, cultural, structural powers and authorities that deem some forms of VAWG a male right aiming to correct females, protect them from wrongdoing, subject them to male power, or use them as a means to relief men's anger from all the crises they run into.

DOMESTIC VIOLENCE UNDER THE SYRIAN CRISIS
EQUAL CITIZENSHIP CENTRE, 2020

According to the United Nations Population Fund (UNFPA), VAWG continues to be a central component of the Syrian humanitarian crisis. The recent report published by UNFPA² shows that in 2022, women and girls throughout Syria were subjected to physical violence, psychological violence, sexual violence, technology- facilitated violence, social violence, as well as forced and early marriage, and denial of rights. Although mentioned less frequently, women and girls also experienced arrest and detention. The same report mentions that women and girls continue to face severe forms of GBV, inside and outside their home, with %33 of households in 2022 mentioning that women and girls feel unsafe in certain areas, an increase from %19 in 2021.



CHILD MARRIAGES IN SYRIA

Furthermore, according to the United Nations Children’s Fund (UNICEF), the percentage of girl child marriages was %13 out of all marriages before the spark of Syrian armed conflict. It rose to %15 in 2012 and to %35 in³ 2015. In 2019, the United Nations Program for Combating Violence revealed that early marriage in Syria increased to %46 in the last eight years⁴. The last study carried out by SCFPA on the Domestic Violence against Women in Syria⁵, showed that there is at least one woman, out of ten, who experiences physical violence regularly. The percentage of women who experience a form of domestic violence amounts to %22 of the phenomenon’s total size. The percentage of psychological violence amounts to %26, physical violence is %18 and sexual violence is %4. According to the Central Bureau of Statistics, “honour crimes” range between 200 and 300 per year with higher numbers registered in rural areas⁶.

VAWG is prevalent in all Syria governorates. For example, the last official statistics, issued by Aleppo Police Headquarter in 2018, revealed that around 280 complaints of physical assault were filed in -2017 2018. According to Director General of Forensic Medicine, 504 VAWG cases have been examined in the same year: 53 cases were against women under 420, 18 cases were against women above 18, and 31 cases were violence against men⁷. The same Commission indicated that beating women increased by %50 in 2016 compared with 2011⁸.

Athr Press website indicated that domestic violence in Syria has become an almost daily piece of news⁹. As incident examples, A 4-year-old girl in Homs was tortured to death by her stepfather; Ayat Al-Rifai was killed by her husband; Amal Hussein Mukheiber was harassed and then killed by her brother in Al-Ghozlanieh, Rural Damascus, and many other abuse cases¹⁰.

2- Whole of Syria Gender-Based Violence Area of Responsibility: Voices from Syria- Assessment Findings of the Humanitarian Needs Overview, 2023, at <https://rb.gy/ytildl>.

3- نضال جوجك، زواج القاصرات، أزمة اجتماعية مستعامة، الحركة النسوية السياسية السورية، 29 يول 2020.

4- أوزيت يوز، أليم المتحدة تكليف: أسباب ارتفاع معدل الزواج المبكر في سورية، 12 آذار 2019.

5- Domestic Violence against Women in Syria, Akram al-Qish and Yousef Breik, SCFPA 2011.

6- سنان سوري، عذابات محبا جرم برفق - والأعداد في ازدياد خلال الحرب، 30 حزيران 2019.

7- 03042021103050579 / <https://www.annahar.com/arabic/news/arab-world/syria> - المرجع السابق

8- 33152 / <https://assafirarabi.com/ar> - البيرس العربي - المرجع السابق

9- rb.gy/mlogse - أثير برس موقع إخباري

10- مزيد من المعلومات انظر الموقع السابق.

مزيد من المعلومات انظر الموقع السابق

The Government's Obligations to Eliminate Violence against Women and Girls in Syria

The Syrian Constitution deems the citizens, women and men, equal in rights and duties: "citizens shall be equal in rights and duties without discrimination among them on grounds of sex, origin, language, religion or creed, and that the State shall guarantee the principle of equal opportunities among citizens". (Article 33, Paragraphs 3 and 4). Article 23 declares that "The State shall provide women with all opportunities enabling them to effectively and fully contribute to the political, economic, social and cultural life, and that the State shall work on removing the restrictions that prevent their development and participation in building society".

- ***The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)***

Syria joined CEDAW in 2003. According to the Convention, the Government of Syria (GoS) is legally obliged to apply its provisions, including the submission of national reports on the measures taken to that end.

However, GoS has made some reservations on key elements of the Convention, including the steps to be taken to eliminate discrimination, particularly Article 2, and the primacy of the existing personal status laws, particularly the Articles 15 ,9 and 16, and Article 29 relating to administration of the Convention and arbitration.

By entering these reservations, the Syrian State has indicated that it would not commit to equality between women and men and would not change discriminative laws and policies on substantive issues for women, to which they were reserving, such as nationality (Article 9), domicile (Article (4) 15, and equality¹¹ in marriage and dissolution (Article 16) and this is contradictory to the State obligations as declared in the Constitution.

In 2017, the government issued the Decree 2017/230 abolishing the reservation on Art. 2, provided that it does not contradict the provision of Islamic Sharia. This means in practice, that most CEDAW provisions are deactivated.

¹¹-Regional Index on VAWG, Category: Legal Framework and Public Policies, Indicator One: CEDAW Ratification, 2020, at <https://www.efi-rcso.org/index-page/2020-regional-index-vawg>.

GoS has made reservations to the following articles of CEDAW:

Art. 2. According to government decree 2017/230, GoS lifted the reservation to Article 2 relating to policy measures regarding the elimination of discrimination against women. However, the decree maintains declaration stating that the government is ready apply this article as long as it does not contradict the provisions of the Islamic Shari'a.

Art. (2) 9, relating to granting women equal rights with men with respect to the nationality of their children.

Art. (4) 15, relating to equal rights of women regarding the law relating to the movement of persons and the freedom to choose their residence and domicile.

Art. 1-16-c, relating to granting the same rights and responsibilities during marriage and at its dissolution.

Art. 1-16-d, relating to the same rights in matters relating to their children.

Art. 1-16-f, relating to granting the mother the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children.

Art. 1-16-g, relating to the same right to choose a family name, a profession and an occupation.

Art. 2-16, relating to minimum age of marriage.

Art. 29, relating to administration of the Convention and arbitration in the event of dispute over the application of treaty provisions.

DOMESTIC VIOLENCE UNDER THE SYRIAN CRISIS
EQUAL CITIZENSHIP CENTRE, 2020

These reservations are contrary to the object and purpose of the Convention, as well as to the obligation of the State in its Constitution. As CEDAW requires State parties to pursue both formal and de facto equality, the CEDAW Committee has indicated that formal equality, as stated in Constitutions, laws, and administrative regulations, is fundamental to the achievement of de facto equality.

In the absence of national strategic commitment at harmonising Constitution and national laws with international obligations, these contradictions in State's commitments to combat VAWG de jure continue to hamper women's achieving of de facto equal right and duties and further reproduce discrimination and violence against them. For example, the Penal Code under the title of "Acts of obscenities or indecent assaults" provides for discriminatory provisions, especially with regard to rape, extramarital sex between consenting adults (adultery), incest, and even sexual harassment and abortion. (see details under 3-Aspects of Discrimination and VAWG in Syrian Legislation).

- ***The Beijing Declaration and Platform for Action***

The 1995 Beijing Platform for Action calls for enhancement of the status of women and the removal of all obstacles to their effective participation in all spheres of public and private life and endorses the concepts of equity between women and men and the empowerment of women as means to sustainable development.

The GoS National Report Beijing +12 25 while seeking to show positive aspects of women rights in the Syrian Constitution, overlooked the contradictions between Constitution and national laws, where discrimination exist in many areas. The Report states that "some articles of the Personal Status Law have been amended in 2019.

The main amendments included the raising the marriage age to 18 years for both women and men; enhancing women's financial rights, confirming women's approval of marriage and awareness of its provisions." However, judges still can marry off girls and boys who are 15 years old under "insubstantial conditions", such as being physically fit and having knowledge of marital life. This is an obvious permission of child marriage.

The governmental report further explains that women have access to fair opportunities of the social protection system in its main pillars: "life and health security and insurance, specialised social security that provides care for individuals, poor families and vulnerable groups, especially woman-headed households, mainly households of martyrs, with their orphan children, care for delinquent girls, girls with disabilities, old women, abused women and children, and children without family care." Nonetheless, there is still discrimination in pensions and securities according to the Personal Status Law, which discriminates between men and women in guardianship, trusteeship and even in mothers' custody of their children.

12-Syrian Arab Republic National Report Beijing +25, p. 3, July 2019.

13-Ibid.

14-Ibid.

Furthermore, acknowledging the positive impact of the amendments referred to in the Government's Report, it is important to emphasise that abolishing the article that permits killing "in the name of honour", known as "honour crimes", while maintaining the article that allows reduction of penalty of the perpetrator under mitigating circumstances as "rage outburst", has limited effect in addressing this crime. The same applies to the amendments of the Personal Status Law, while keeping wardship limited to men. While providing information on the State achievements so far, the report failed to elaborate on State commitment to address these contradictions, by cancelling of discrimination against women across all laws, including the lifting of the reservations CEDAW, and therefore to affirm the States' commitment to improving the status of women de facto.

Discrimination in legislation perpetuating violence against women and girls

- **Rape, Marital Rape, and "Marry-Your-Rapist"**

The Penal Code addresses rape in Articles 489 to 492. Articles 489 and 490 cover rape and Articles 493 to 496 cover other forms of sexual violence (under "Acts of obscenity") that do not fall under the definition of rape. Article 489, states "1 - Any person who has sexual intercourse with someone other than their spouse, without their consent, whether by violence or threat shall be punished with permanent hard labour." Article 493: "1 - Every person who uses force or threats to compel a person to submit to or engage in an indecent act shall be liable to a term of not less than 12 years' imprisonment at hard labour. 2. The minimum term shall be 18 years if the victim is under 15 years of age". It is noted that all Articles lack preciseness and provide an ambiguous definition.

The term "rape" is not used in the law, instead, the term "sexual intercourse" is used. Furthermore, the Articles on rape carry a form of VAWG as it leads to marital rape. In more details, Articles 489 and 490 state that rape can be committed by the perpetrator against any person "other than their spouse."

This legal clause means that a husband is legally permitted to coerce his wife to preform sexual intercourse against her consent because it mentions clearly the spouse act as exception to the rape crime. It is true that a husband shall be penalised if he uses violence to coerce his wife to perform sexual intercourse, but the penalty here is only for using violence, without criminalising the act as rape, which can be perpetrated leaving no traces of violence, and thus difficult to be proved.

Reviewing the Syrian laws revealed that there is no provisions or laws dealing specifically with VAWG. There are articles dealing with the so-called "Acts of obscenity, or Indecent Assaults."

These articles are discriminatory, and there is nothing about the protection of women victims of VAWG.

EQUAL CITIZENSHIP CENTRE, 2020

Moreover, Article 186 of the Penal Code states: “A penalised deed shall not be deemed a crime if a consent was given before or during the deed occurrence.” This means that if a victim of rape gives her consent, because of threat or of fear of being killed, before or during the assault on her, that incident becomes no longer considered as a rape crime.

The law also provides mitigating circumstances if the rapist enters into a valid marriage contract with the victim, neglecting women’s call for justice and their right to restore their dignity. Article 508 states “If a valid marriage is concluded between the perpetrator of one of the felonies stipulated in this chapter and the victim, the perpetrator shall benefit from the mitigating circumstances prescribed in Article 241, provided that the sentence is not less than two years imprisonment.”

- The law does not define rape and other sexual crimes as crimes against mental, psychological and physical health, but against honour and morality.

- Rape is defined pending on conditions that exclude many crimes from its legal definition. The law is not neutral regarding the perpetrator’s and victim’s sex. It also disregards cases, such as marital rape.

- The law presumes the victim’s consent and approval only because she has not resisted physically or by screaming or complaining. Thus, it undermines the raped woman’s testimony and overburdens her with proving the rape.

- **Crimes in the name of “honour”**

Though the article on “honour crimes” has been abolished, there are still articles granting men mitigating circumstances, such as “honour motives” and extreme rage outbursts. (Art. 192 of the penal code).

Also, the Syrian law and jurisprudence deal with the hymen as a measure of crime seriousness. The law assures that the hymen changes the criminal description of action, stating explicitly that the redress for a criminal “deflowering” of a girl goes to the guardian, as it is the guardian whose honour has been hurt. Maintaining this article leads to exposing Syrian women to the risk of being murdered under the pretext of honor, which also stands as a legal justification for the perpetrator in a homicide case to mitigate the sentence.

- **Extramarital sex between consenting adults - “Adultery”**

Articles 474 - 473 of the Penal Code criminalise extramarital sex “adultery”. Research shows that maintaining “adultery” as a criminal offence is directed mostly against women and girls. The penalty almost always discriminates against women both in law and practice, even when penal code definitions appear gender neutral and prohibit “adultery” by both men and women. For example, by the law, women may be prosecuted for committing the act of “adultery” that occurs anywhere, while men are prosecuted only if adultery is committed in the marital home or if the man takes a mistress openly.

Moreover, the criminalisation of “adultery” may be harmful for women because it may deter them from reporting rape or sexual assault for fear that the authorities may prosecute the woman concerned for adultery¹⁵.

On the other hand, according to the Penal Code, if a man is engaged in prostitution with a woman in a car, he shall be penalized according to Article 517 of the Penal Code for violating the public morals, while the woman shall be penalised for engagement in prostitution.

15-syria: Gender Justice and the Law, UNDP, NUFPA, ESCWA, 2018, at <https://arabstates.unfpa.org/en/publications/gender-justice-law-syria>. 16-Dr. Ibrahim Draji, experts roundtable “Discriminatory Legislation and Protection of Women and Girls”, 20-18 November 2021.

- **Incest**

According to the Syrian law, incest is closely linked to rape in terms of meaning and concept. But the action of incest goes between unmarriageable relatives, between whom the Personal Status Law forbids marriage. The law carries a form of VAWG as it deems the female's consent given, and thus, she is a partner and not a victim. If the victim did not make any physical resistance against the undesired sexual behaviour, the law supposes that the victim's consent is given, no matter if the perpetrator has threatened to use sexual violence or actually used it. Thus, the law does not take into account the male's community and legal power, which he can use to control his victim in a way she cannot escape.

- **Prostitution**

Prostitution in Syria is considered a crime, and not as a form of VAWG. Therefore, instead of protecting women in prostitution, the law considers them criminals. Thus, jurisprudence was made in a way that condemns women, and not men. The concept of prostitution is dealt with under two different explanations. In the Syrian Penal Code and relevant laws, prostitution is a woman's "trait" only and not a man's. Only women, and not men, are penalised for engagement in prostitution.

- **Prostitution and human trafficking**

There is a specific legislation on human trafficking in Syria which is the 2010 Anti-Human Trafficking Law. However, as the law does not consider prostitution as VAWG, no connection is made between how the system of prostitution is contributing to trafficking of women for sexual exploitation. There is confusion, both in concept and in practice: women

who are victims of human trafficking for sexual exploitation are punished as prostitutes as per the existing Anti-Prostitution Law, which penalises the women victims of the system of prostitution, and not the client. Thus, both women in the system of prostitution and victims of trafficking of women for sexual exploitation are left without protection and support.

Prostitution and human trafficking are very complicated issues that are protected by multidimensional corruption system (economic, ethical, judicial, etc.) Therefore, the existing legal provisions are insufficient to combat this phenomenon¹⁶.

- **Abortion**

Abortion in Syria is prohibited by the law except for medical reasons. However, it is practiced secretly. This means that costs of abortion are very high, and only wealthy women can have safe abortion. Furthermore, since the Syrian law prohibits abortion in texts, contraceptives are sold without any health oversight.

- **Child marriage**

Customary marriage (the marriage that takes place outside courts, according to the custom of the community) is a common phenomenon in most Syrian governorates. The First Sharia Judge of Damascus, Mahmud Maarawi, indicated that the number of marriage cases for minor girls who are under the legal marriage age (18 years for girls in Syria) constituted more than half of the cases in Damascus and Rural Damascus. About one quarter of the child marriage cases brought to the Sharia Court were actually in absence of the girl's guardian, as many fathers would marry off their girls customarily, outside the court, and when a girl got pregnant, she would file a marriage establishment lawsuit¹⁷.

16-Dr. Ibrahim Draji, experts roundtable "Discriminatory Legislation and Protection of Women and Girls", 20-18 November 2021.

17- 27-08-2017- سورية إلى أين؟ والزواج الغير شرعي، والزواج القاصرات، زواج القاصرات، سورية الإعلامية.

Despite the amendments of Personal Status Law in 2019, child marriage is still permissible, and judges have the discretionary power to approve marriage for girls who are below 18-year-old.

- **Deprivation of nationality right**

According to the Syrian Nationality Law, Syrian men only have the right to pass their nationality on to their children, regardless of their place of birth, while Syrian women are denied the right to pass their nationality on to their children if married to a non-Syrian man, even if the birth takes place on Syrian territory¹⁸.

- **Deprivation of inheritance**

The Syrian Personal Status Law does not ensure the same rights of women and men in inheritance. Estimates reveal that only %10-7 of houses in Syria are currently registered in the name of women¹⁹. Even if inheritance was split according to Sharia law, this number would be significantly higher. In most cases, in practice women are deprived of their portions of inheritance due to insufficient procedures and lack of adequate law enforcement that can ensure women's rights.

Reforming the Legal Frame regarding combating of violence against women and girls

As described above, VAWG is a phenomenon that persists in both the private and the public sphere. It affects women of all categories, in their personal and social statuses. Therefore, while it is important to criminalise VAWG in the Penal Code, combating VAWG cannot be limited to applying a solely criminal approach. A comprehensive approach is needed to tackle all aspects and dimensions of VAWG with no discrepancies between legal provisions.

International and regional documents on combating VAWG also recommend the adoption of comprehensive laws to combat it. Such a law should include a definition on VAWG, and the criminalisation of all its forms, regardless of the context in which it occurs and of the nature of the relationship between the aggressor and the victim.

Moreover, the law must be consistently enforced and monitored, with adequate resources allocated. All working in this field must have the skills and capacity to apply a victim-based approach, and exert concerted effort that include spreading of information, raising awareness, and public mobilisation²⁰.

Other than removing the discriminatory legal provisions against women in the national laws mentioned in the sections above, a legislation or legal framework that aims to prevent and combat VAWG must include the following elements:

18- تقرير حول تحليل الوضع الوطني لحقوق الإنسان للمرأة والمساواة على أساس النوع الاجتماعي - سوريا.

19- Guidance Note on Gender and Housing, Land and Property in Syria, UNDP & NRC (2022).

20- Regional Observatory on Violence against Women and Girls, Policy Brief on Towards Comprehensive Law for Combating VAWG in South Mediterranean Countries 2021, at <https://rb.gy/99f160>.

The Comprehensive Legislation on Combating VAWG should:

- Contain a definition that includes all acts of violence according to the UN definition, as “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”
- Criminalise all forms of violence.
- Provide prevention measures and protection orders.
- Provide for support services for women victims of VAWG (health, economic, social, psychological, legal).
- Ensure the penalisation of perpetrators.
- Provide for trainings of police, judicial officials as well as service providers.
- Provide for collaboration between relevant ministries, police, courts, social services, and health-care providers.
- Require information gathering and research to support policy development.
- Provide for monitoring and evaluation to oversee implementation of legislation, and report to the parliament on a regular basis.

Other than removing the discriminatory legal provisions against women in the national laws mentioned in the sections above, a legislation or legal framework that aims to prevent and combat VAWG must include the following elements:

- **Definitions:**

The law must include precise definitions of violence against women and all forms thereof: physical violence, psychological violence, economic violence, sexual violence, political violence, etc. It must also include precise definitions of some terms that may appear in the law, such as victim, family, domestic violence, protection order, rape, marital rape, and harassment.

- **Objectives:**

The legislation must aim at protecting women and girls from all forms of VAWG, preventing such violence, penalising the perpetrators thereof, compensation for the harm caused by it, guaranteeing women's right to live in dignity and free of violence, as well as developing the necessary mechanism for that end.

- **Law application:**

The law application scope must be clear; it must be applicable to all women and girl victims regardless of language, colour, nationality, age, disability, family status, or religion. The law must also be applicable to every individual or group, against whom a violent act that is criminalised by law is committed, regardless of the relationship between the perpetrator and the woman victim or the place where the violence has been perpetrated.

- **Duty of the State:**

The law must specify the State's obligations to assume full responsibility for the protection of women's rights, through:

- Developing effective and comprehensive national plans including suitable measures for the prevention of all forms of VAWG.
- Criminalising all forms of VAWG.
- Respecting and ensuring personal security and privacy for women.
- Providing legal care to victims of violence and enabling them to access justice.
- Providing the necessary social, health, and psychological assistance to women victims.

- **Raising public awareness:**

In the context of launching the law on combating VAWG, the State must take all the necessary measures, including awareness raising campaigns and programs, to raise the public opinion on all forms of violence and how to prevent them.

- **Protection from VAWG:**

It is necessary to establish centres for protection from VAWG in all districts, with a view to responding to special needs of women, paying special attention to the needs of women with disabilities. Such centres must be available, accessible and provide support and assistance to victims, including:

- Safe accommodation/sheltering.
- Health and psychosocial support.
- Free legal counselling and legal aid assistance.
- Economic empowering, training, and assistance for finding job opportunities.

- **Protection orders:**

The law must stipulate how a protection order is taken and ensure its issuance in the deliberation room, without summoning the litigants. A protection order must be for expeditious execution and without a bond and executed by the public prosecutor. It must provide for one, or more, of the following measures:

1. The perpetrator of VAWG is ordered to stay away and not threaten the women victim or any of the persons included in the protection order. The perpetrator should be also ordered not to agitate for harassing or threatening the women victim.
2. The perpetrator of VAWG is ordered to leave the house temporarily for a period determined in the order, whenever a threat against the victim is perceived. This period is renewable when needed.
3. The perpetrator of VAWG is prevented from entering the victim's house or approximating the victim's places of existence or any other place(s) specified by the order if there is no other way to protect the victim and all the persons included in the protection order.
4. The women victim and other persons included in the protection order may be transferred to a temporary safe and convenient shelter if a real threat is perceived against the victim and her children who are under the age of custody.

- **Investigation and litigation mechanisms:**

The law must contain defined mechanisms for investigation and litigation in the crimes of VAWG, such as creating competent judicial police to carry out the tasks of search and investigation in complaints of violence against women. Such judicial police should be trained on how to deal with cases of VAWG and must include female officers.

- **VAWG during armed conflicts:**

Any law on combating VAWG must provide for aggravated punishments for committing such violence in wartime and armed conflicts, in the context of a widespread armed attack, or any systematic attack against a civilian population. These crimes are classified as crimes against humanity, crimes of genocide, and war crimes, specifically: enslavement, forced pregnancy, enforced disappearance of persons, torturing, rape, female genital mutilation (FGM), taking hostages, and killing.

- **Monitoring and Evaluation (M&E):**

The government should plan for M&E of the law, focusing more on funding opportunities. Monitoring laws is an important tool to ensure their application. The comprehensive law on VAWG should state on monitoring and evaluation of the law and should be consistently enforced and monitored, with adequate resources allocated.

Recommendations

- Lift the reservation to CEDAW to assert State's commitments to combat and prevent VAWG and discrimination of women and girls and ensure their protection and right to a life free of violence.
- Amend and abolish all discriminatory legal articles that perpetuate violence against women and girls and hinder them lead a life free of violence. These are as follow:
 - Amend the Articles of the Penal Code relating to rape and provide comprehensive definition of rape, ensure the penalty of rape and incest regardless of if the woman victim gives her consent due to any circumstances.
 - Criminalise explicitly marital rape as serious and frequent form of domestic violence.
 - Remove all articles relating to mitigating the sentence in case of "honour crime", abolish the articles that reduce the penalty of rape in case the perpetrator married the victim, and remove provisions that prohibit abortion for women.
 - Reform the Personal Status Law to ensure equality between women and men in inheritance, marriage relation, and right to custody of children.
 - Reform the Nationality Law to enable women to pass on nationality to their children or spouse on equal basis with men.
- Amend the Anti Prostitution Law as prostitution is a form of VAWG where women caught in prostitution are victims and in need of protection, and the clients are perpetrators to be penalised.
- Amend the Anti Human Trafficking law to consider and suppress all forms of traffic in women for sexual exploitation.
- Set 18 years old as legal age of marriage without including exceptional circumstances to approve a marriage for those under this limit.
- Decriminalise extramarital sex (adultery). The penalty almost always discriminates against women both in law and practice. It also deters women from reporting rapes by fears that their claims will be associated with a "crime of adultery".
- Develop a comprehensive legal law for the elimination of VAWG that define and criminalise all forms of violence against women; protect and assist women victims and their children; penalise perpetrators; ensure coordination between all concerned actors including civil society; include reporting and referral mechanisms as well as training for service providers and public awareness raising, monitoring and evaluation, and data collection and information spreading on services for victims of VAWG.

- Develop special procedures and mechanisms to enforce the law including protection measures.
- Urgently establish shelters for women victims of VAWG and provide them with all psychological assistance needed to overcome the harmful experience as well as trainings and income opportunities.
- Organise awareness raising activities on root causes of VAWG.
- Carry out studies and statistical surveys to collect information on VAWG and studying them to evaluate the problem magnitude and dimensions.
- Establish a comprehensive women's information system, in cooperation with the Central Bureau of Statistics and relevant international and national organisations to ensure that the collected and analysed information is made available to the public while women's identities are kept confidential.
- Activate a hotline to receive women's calls 7/24, with specialised persons in every police station to receive women's reporting and complaints. Those specialised persons are preferably to be women because this contributes to the development of suitable mechanisms of protection of women from various forms of VAWG.
- Allocate sufficient funds in the State's budget for combating VAWG and providing services for women victims.
- Build the capacities of all service providers: personnel of the legal system, criminal justice, policy and judiciaries and health system on receiving and providing care for women victims through trainings and skill development programs.

EuroMed Feminist Initiative (EFI) is a policy platform that provides expertise in the field of equality between women and men and advocates for women's human rights as inseparable from democracy building and citizenship, for political solutions to all conflicts, and for the right of people to self-determination.

The Regional Observatory on Violence against Women and Girls (VAWG) was established as an independent mechanism to follow up on laws and policies related to combating VAWG and support the implementation of the Union for the Mediterranean (UfM) Ministerial Declarations. The Observatory is established and hosted by EuroMed Feminist Initiative (EFI) in Amman.

Equal Citizenship Centre (ECC) is a non-governmental human rights centre that works to promote a culture of citizenship, human rights, and women's rights in Syrian society as per international legal and human rights instruments.