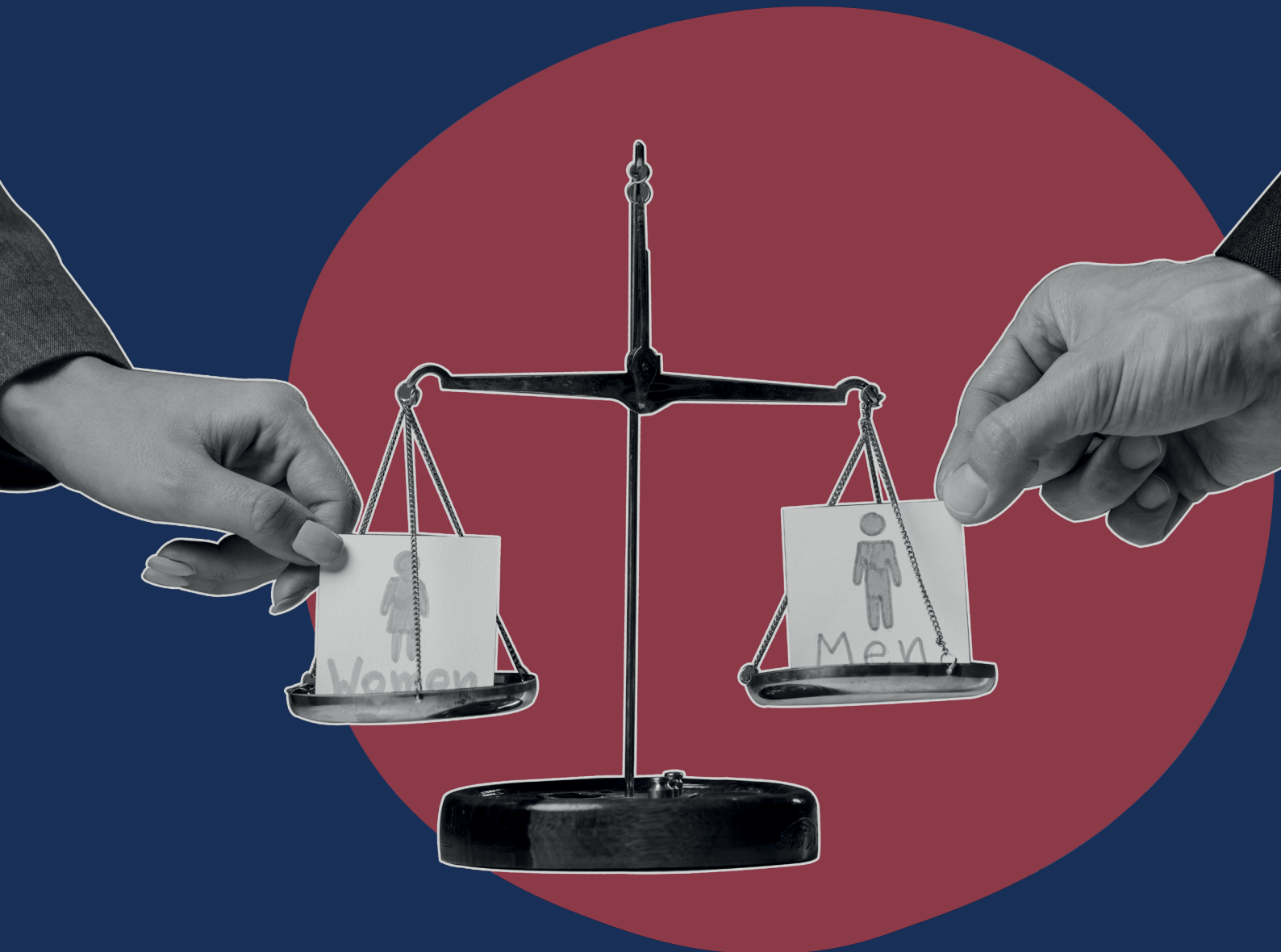


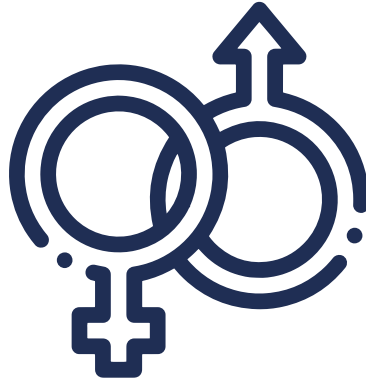


Property Rights in Syria from a Gender Perspective

HLP Working Group



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The Day After Association (TDA) is a Syrian organization working to support the democratic transition in Syria. Her scope of work focuses on the following areas: rule of law, transitional justice, security sector reform, electoral system design and the election of the Constituent Assembly, constitutional design, economic reform, and social policies.

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Executive Summary

Research has shown that issues of housing and property rights in Syria are complicated for women, due to a combination of obstructing factors, as well as the armed conflict which has forced half the population -men and women- to leave their homes, sometimes without identification papers and title deeds.

The combination of discriminatory laws and traditions, together with an undemocratic political reality, has resulted in lack of an appropriate work environment for NGOs inside Syria and across different geographies. The biggest obstacle is that dominating forces show no political will to solve this crucial human rights issue.

Depriving women of their property and housing rights is both a symptom and a cause of their low levels of economic empowerment.

Research has also shown the impact of armed conflict on these issues, linking them to issues of missing persons, arrest and security harassment targeting the opposition, whatever the form of this opposition is, and attempts by dominant forces to achieve demographic change. These issues are also connected to the issue of justice for all, the gendering of mechanisms for justice and peace-making and peace-building.

The questionnaire conducted for this research showed remarkable development in the attitudes of participating women towards ensuring their rights to inheritance and sharing family property.

The research concluded with a number of recommendations on multiple levels. On the political level, it recommends including housing and property rights issues in peace talks, and an urgent end to the conflict to ensure democratic transition, and adopting decentralization whereby local units would guarantee equal distribution of land to male and female family members, ensuring the freedom to civil work, and guaranteeing a quota in representative and executive positions of no less than 30% for each gender.

On the legal level, it recommends a provision in the constitution to guarantee equal rights to housing and amend discriminatory laws against women, abolish all exceptional courts in Syria and repeal all their previous rulings, abolish all security measures required for conducting legal authorizations; and a provision in civil law to guarantee tenant rights in cases of disasters and armed conflicts, and to ensure that money acquired during marriage is joint property, and to amend personal status laws so the marital home is the same for custody, and so the wife has the right to use the marital home after the husband dies and vice versa, and to reject that women waive this right before a certain period of time has passed after death of the deceased.

On the social level, it recommends strengthening the role of alternative media, amending educational curricula to enshrine the values of human rights and women's rights, and gender-based property and housing rights in all organizations, associations and research centers working on this file.

Finally, in terms of ensuring justice for all, it recommends providing equal compensation for women and men for property and housing losses, and involving women in discussing and approving justice-for-all programs, launching the transitional justice process, and ensuring women's participation.

Introduction



Humanity struggled for a long time until human rights were adopted and included in the International Bill of Human Rights. Although women's rights are an integral part of human rights, the debate about ensuring women's rights is still going on in many parts of our world, especially in our region, where women's rights are seen as a "Western recipe" that conflicts with cultural and religious idiosyncrasies, and some even view women's rights as a threat to their identity.

Although most Arab countries have ratified CEDAW, the constitution for women's human rights; reservations made by these countries to this agreement have affected basic articles such as Article Two - which represents the spirit of the agreement - and these reservations are similar in content and pretexts. This approach reflects negatively on ensuring women's rights in all aspects, especially those rights that lead to other rights.

The right to housing is one of the basic human rights, for men and women, and adequate housing is an essential factor for the enjoyment of economic, social and cultural rights. It should not merely be regarded basic shelter, but national frameworks should be strengthened to achieve this right which includes addressing immediate risks to housing and developing policies and practices to meet long-term housing needs.^[1]

[1] Global Network for Economic, Social and Cultural Rights.

Ensuring women's access to their land, housing and property rights is one of the factors influencing the development of women's living conditions, particularly in rural economies, and is essential for the daily survival, economic security and physical safety of women and their children. Despite the importance of these rights to women and the families they support, women still lack security of tenure disproportionately.^[2]

The issue of housing and property rights in Syria are complicated for women, due to a combination of obstructing factors, as well as the armed conflict which has forced hundreds of thousands of men and women to leave their homes, sometimes without identification papers and title deeds.

The combination of discriminatory laws and traditions, together with an undemocratic political reality, has resulted in lack of an appropriate work environment for NGOs inside Syria and across different geographies. The biggest obstacle is that many dominating forces show no political will to solve this crucial human rights issue.

Continuing armed conflict links women's HLP rights issues to those of missing persons, arrest and security harassment targeting the opposition, whatever the form of this opposition is, and attempts by dominant forces to achieve demographic change. These issues are also connected to the issue of justice for all, the gendering of mechanisms for justice and peace-making and peace-building.

Despite the critical importance of this issue, it is still almost entirely absent in many civil organizations and projects, and is still absent from subjects of political negotiation.

[2] The United Nations High Commissioner for Human Rights.

Chapter One

Legislative and legal framework for HLP rights in international law



The right to property is a basic human right since birth, regardless of any other considerations, and this is what international and regional instruments have stipulated, foremost of which is the Universal Declaration of Human Rights in Article 17. Since the provisions of international law all affirm non-discrimination based on any consideration, the right of women to own property and housing is a necessity, in order for them to enjoy equality, as well as for their safety and well-being.

Below we review the most important international and regional instruments dealing with the right to property and housing:

1- The Universal Declaration of Human Rights of December 10, 1948

States in Article 2: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, or sex.”

It also states in Article 13: “1- Everyone has the right to freedom of movement and residence within the borders of each state.”

It states in Article 17: “1- Everyone has the right to own property alone as well as in association with others. 2- No one shall be arbitrarily deprived of his property.”

It states in Article 25: “Everyone has the right to a standard of living sufficient to ensure the health and well-being of himself and his family, especially in terms of food, clothing and housing.”

2- The 1951 Convention relating to the Status of Refugees

The Convention speaks of refugees in general without referring to either men or women, and in Article 21, it states that: “With regard to housing, in so far as the matter is regulated by laws or regulations, or is subject to the supervision of public authorities, the Contracting States shall accord to refugees lawfully staying in their territory treatment as favorable as possible and, in any case, not less favorable than that accorded to aliens generally in the same circumstances.”

3- International Convention on the Elimination of All Forms of Racial Discrimination 1965

This agreement stipulates the right to own property, but without referring to either men or women. Rather, it talks of human beings in general. Article 5 states: “D. (v) The right to own property alone as well as in association with others.”

4- International Covenant on Economic, Social and Cultural Rights, 1966

Article 3 of the International Covenant on Economic, Social and Cultural Rights^[3] commits to guaranteeing equality between males and females. This article states: “States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all the economic, social and cultural rights set forth in this Covenant.” It continues in Article 11: “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, which provides for their needs in terms of food, clothing and shelter, and the right to a continuous improvement of his living conditions.”

5- International Covenant on Political and Civil Rights, 1966

The International Covenant on Political and Civil Rights spoke of^[4] the general human (as an individual) right to ensure the protection of “home,” as stated in Article 17: “No person shall be subjected, in an arbitrary or unlawful manner, to interference with his privacy, family, home or correspondence, nor to any unlawful attacks on his honor or reputation. Everyone has the right to the protection of the law against such interference or prejudice.”

6- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)^[5] includes articles on guaranteeing housing rights for women as an international bill of rights for women. In Article 14: “(h) the enjoyment of adequate living conditions, in particular with regard to housing, sanitation, electricity and water supply, transport and communications.” As for Article 15 of the CEDAW Convention, it granted women the legal capacity to dispose of their property, by stating: “2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure.”

7- First Labor Agreement 1919

Since its founding in 1919, the International Labor Organization has worked to combat discrimination between men and women in the labor market, by working to establish committees to protect women or committees for working women; and by pressing for recognition of this equality in order to eliminate discrimination and gender gaps in the workplace. There are 188 labor conventions, 8 of which are essential, and many refer to housing and property rights for male and female workers, each in its field of competence.

[3] Adopted for signature, ratification and accession by United Nations General Assembly Resolution 2200 A (XXI), dated December 16, 1966.

[4] Ibid.

[5] Approved in 1979 and became operational in 1981.

8- Beijing Declaration and Platform for Action 1995

The Beijing Declaration and Platform for Action^[6] includes commitments by states to “undertake legislative and administrative reforms to give women full and equal access to economic resources, including the right to inheritance and to ownership of land and other property, credit, natural resources and appropriate technologies.”

9- Charter of Fundamental Rights of the European Union 2000

In Article 17: “Everyone has the right to own, use, dispose of and bequeath his or her lawfully acquired possessions. No one may be deprived of his or her possessions, except in the public interest and in the cases and under the conditions provided for by law, subject to fair compensation being paid in good time for their loss. The use of property may be regulated by law in so far as is necessary for the general interest.”

10- Pinheiro Principles 2005

The process of preparing the UN’s Principles on Housing and Property Restitution for Refugees and Displaced Persons, which eventually became known as the Pinheiro Principles,^[7] took about nine years, beginning in 1997 and officially ending on 11 August 2005. The Pinheiro Principles were designed to provide practical guidance to states and United Nations agencies on how best to address the complex legal and technical issues surrounding housing, land and property recovery. The Preamble starts by: “Recognizing that millions of refugees and displaced persons worldwide continue to live in precarious and uncertain situations, and that all refugees and displaced persons have a right to voluntary return, in safety and dignity, to their original or former habitual homes and lands, Under-scoring that voluntary return in safety and dignity must be based on a free, informed, individual choice and that refugees and displaced persons should be provided with complete, objective, up-to-date and accurate information, including on physical, material and legal safety issues in countries or places of origin.

Reaffirming the rights of refugee and displaced women and girls and recognizing the need to undertake positive measures to ensure that their rights to housing, land and property restitution are guaranteed.”

This paper is limited to reviewing the text of Article 4 of the principles, as they are closely related to the subject of this research.

[6] Issued in 1995 by the Fourth World Conference on Women, which was held in Beijing.

[7] Paulo Sergio Pinheiro is a Brazilian academic researcher and political scientist who worked at the United Nations as Special Rapporteur on human rights. Available at:

https://www.ohchr.org/Documents/Publications/pinheiro_principles.pdf

“4. The right to equality between men and women:

4.1 States shall ensure the equal right of men and women, and the equal right of boys and girls, to housing, land and property restitution. States shall ensure the equal right of men and women, and the equal right of boys and girls, inter alia, to voluntary return in safety and dignity, legal security of tenure, property ownership, equal access to inheritance, as well as the use, control of and access to housing, land and property.

4.2 States should ensure that housing, land and property restitution programmes, policies and practices recognize the joint ownership rights of both male and female heads of the household as an explicit component of the restitution process, and that restitution programmes, policies and practices reflect a gender-sensitive approach.

4.3 States shall ensure that housing, land and property restitution programmes, policies and practices do not disadvantage women and girls. States should adopt positive measures to ensure gender equality in this regard.”

11- United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas 2013

Article 4, Paragraph 2, Clause (H) states: “Equal access to, use and management of land and natural resources, and treatment on the basis of equality or priority in the context of land and agricultural reforms and land settlement plans.”

Chapter Two

HLP rights in Syrian legislation



In this section, a distinction must be made between legislation issued by the Syrian state and that issued by de facto authorities formed after protests transformed into armed conflict producing pockets of influence under different Syrian groups.

I: Syrian Constitution and Law

A Right of ownership under Syrian constitutions

Successive Syrian constitutions - temporary or permanent - provided for property rights as an important and sacred right, that must be protected by the state as it contributes to stability, and thus growth and prosperity.

1- Constitution of 1920, or the King Faisal Constitution

Article 19 states that “individuals or legal persons’ assets are guaranteed by law. The government may not expropriate an owner’s property except for public benefits after paying compensation in accordance with its relevant laws.”

This text can be criticized for referring to the law this guarantee over individuals’ movable and immovable property; the constitution should have been the guarantor of these rights.

2- Constitution of 1930

In Article 13: “The right to ownership is protected by law. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and after just compensation,”

Article 14 states that state confiscation of funds is prohibited.

Writers of this constitution made the same mistake as in the previous constitution. The constitution did not guarantee property rights, but referred them to the law. One addition to its credit was that of just compensation.

3- Constitution of 1950

Articles 21, 22 and 23 stressed the preservation of property rights and the owner’s right to freedom of disposal, linking it to the condition of not conflicting with public ownership. They also allowed expropriation in the public interest in return for just compensation, and forbade confiscation except when carried out through the judiciary or under the law in cases of wars and disasters.

4- Constitution of 1973

This constitution did not differ from those preceding it regarding ownership rights, but in Articles 14, 15 and 16 expanded on types of property, determined the ceiling for properties, expropriation, and relevant obligations and compensations.

This constitution is to be criticized for its broad language regarding property rights, such as “the interests of the people” and “the national economy,” and for placing the use of individual property within the framework of it achieving its social function to serve the national economy and development, stipulating it should not conflict with the interests of the people.

These texts meant doors were opened wide for the regime and security services and exceptional courts to rely on in order to confiscate Syrians’ private funds and properties, especially those who were opponents of the regime.

5- Constitution of 2012

The Syrian constitution issued in 2012 never referred to the right to housing, but it did include explicit references to property rights. In Article 15: “Private property - collective and individual - is protected as per the following rules: 1. Public confiscation of funds is prohibited. 2. Private property may only be expropriated for public benefit by decree and in return for fair compensation in accordance with the law. 3. Confiscation of private property can only be imposed by a final judicial decision. 4. Private property may be confiscated for the necessities of war and natural disasters in return for fair compensation. 5. Compensation must be equivalent to the real value of the property.”

Article 16 stressed the need to specify property ownership ceilings, stating: “The law sets the maximum limit for agricultural ownership and agricultural investment as that which guarantees protection of the farmer and agricultural worker from exploitation, and guarantees an increase in production.”

The constitution guarantees the right to transfer property in Article 17, which states that: “Right of inheritance is protected in accordance with the law.”

The constitution includes protection of housing under the rights it guarantees, in Article 36: “2- Homes are inviolable and may not be entered or searched except by order of the competent judicial authority, and in cases specified by law.”

Although Article 23 of this Constitution is reserved for women, it is devoid of guarantees, and mentions only providing opportunities and working to remove restrictions, stating: “The state shall provide women with all opportunities that allow them to participate effectively and fully in political, economic, social and cultural life, and shall work to remove restrictions obstructing their development and participation in building society.”

The Syrian constitution does not guarantee equality between women and men in its own separate article. Rather, equality is mentioned in the context of prohibiting discrimination based on a set of fundamentals, as stated in Article 33: “3- Citizens are equal in rights and duties, with no discrimination on the basis of gender, origin, language, religion or creed.”

B Right of ownership under Syrian Civil Code promulgated by Legislative Decree No. 84 of 1949:

This law speaks at length on property rights, distinguishing between movable and immovable property, types of real estate, private funds and public funds, and mentions owners’ rights to dispose of their property, and mechanisms of expropriation. Some articles of this law are, for example:

Article 768: “The property owner, alone, and within the limits of the law, has the right to use and dispose of it.”

Article 769: “The property owner also owns all of its essential components.”

Article 771: “No one may be deprived of their property except in cases determined by law and in the manner it prescribes, and in return for just compensation.”

C Discriminatory laws against women

1- Nationality Law^[8]

Article 3 of the Nationality Law^[9] states that: “A Syrian Arab is legally: a- Anyone born in or outside the country to a Syrian Arab father. b- Anyone born in the country to a Syrian Arab mother, whose paternity has not been legally established. c- Anyone born in the country whose parents are unknown, or of unknown nationality, or stateless. A child considered of unknown parentage in the country^[10] is born there, in the place where he was found, unless proven otherwise. d- Anyone born in the country who was not entitled at birth to acquire a foreign nationality by filiation. e- Anyone originally from the Syrian Arab Republic and has not acquired another nationality, who did not apply for a Syrian nationality within deadlines set by previous decrees and laws. The provision of this article shall apply even if birth occurred before the effective date of this legislative decree.” Based on the above, a Syrian woman married to a non-Syrian is deprived of the right to pass on her nationality to her children, who are treated as foreigners (regardless of whether they are Arabs or non-Arabs). These children are subject to provisions of Article 836 of the Civil Code:^[11] “2.

[8] Issued by Legislative Decree No. 276, dated 24/11/1969.

[9] Chapter Two: Proof of citizenship, approved in 1969.

[10] The term “foundling” was changed to “unknown parentage” by Legislative Decree No. 70 of 2012.

[11] Civil Law, Part Two, Rights in Rem.

A foreigner is not granted the right to inherit property, unless the laws of his home country grants reciprocity to Syrians.” Provisions of Article 876 also apply: “2. A foreigner is not granted the right to property stated in wills unless the laws of his home country grant reciprocity to Syrians.”

These children also become subject to the Foreign Ownership Rules,^[12] which stipulate in the first article: “A- A family can own, for the purpose of personal residence independently, one property built with a regular license according to construction controls, with a minimum construction area of 140 square meters, and forming one integrated housing unit. Floor separation requests for such property are not accepted, in the event a property can be thus divided, and ownership is granted by prior license issued by the Minister of Interior. Under this law, a family is defined as a husband, wife, and children under his guardianship, provided that this family’s residence in the Syrian Arab Republic is legal.” Based on the above text, neither a single son, nor a single daughter, nor a son or daughter of a Syrian woman married to a non-Syrian, have the right to own a residential property. Additionally, the family of a Syrian woman married to a non-Syrian man is subject to provisions of Article 5 of the Foreign Ownership Rules, stating that: “In border regions, ownership, rent and investment stipulated in this law are subject to distance requirements determined by the Minister of Defense.”

As for transfer of ownership through inheritance, Article 3 of the Civil Code stipulates: “A- If a property located inside or outside the regulatory plans of the administrative units and municipalities is transferred to a non-Syrian through inheritance, transition or will, his right is forfeited if the laws of his home country do not grant reciprocity to Syrians, and he must transfer ownership to a Syrian national within 2 years from the date it was transferred to him, otherwise it shall be transferred to State Property Management in return for its estimated monetary value in accordance with provisions of the Acquisition Law.”

Sometimes this distinction under the Nationality Law results in legal manipulation, whereby the family of a Syrian woman married to a non-Syrian resort to registering all the family property in her name, and she becomes - in theory - the owner, whereas in reality she cannot dispose of any of this property without the approval of her husband or sons, i.e., illusory ownership.

[12] Law No. 11, dated 10/4/2011.

2- Personal status laws

Personal status laws in force in Syria require men to secure the family home,^[13] and this reinforces prevailing customs that grant sons the bulk of the inheritance, especially property, and “contents” daughters with a few pieces of gold to pressure them into relinquishing their inheritance in favor of their brothers.

Article 65 of the General Personal Status Law states that:^[14] “The husband has to house his wife in similar accommodation.” However, Article 73^[15] amended in 2019 exempts the husband from providing alimony - which includes housing - to his wife, in a number of cases, stating “The wife’s right to maintenance shall be forfeited when legitimate grounds are not present, as per the following cases: 1/ If she refuses intimacy with the husband. 2/ If she refuses to move into the marital home. 3/ If she abandons the marital home. 4/ If the husband is prevented from entering the marital home. 5/ If she refuses to travel with her husband. 6/ If she works outside the home without her husband’s permission, expressly or implicitly, unless she stipulated otherwise in the marriage contract.” Alimony is denied without any question to the wife about the reasons behind these actions, with marital violence often the direct reason behind them. Notably, in terms of work, the 2012 constitution stipulates in Article 40 that: “1. Work is the right and duty of every citizen, and the state works to provide it to all citizens, and the law is responsible for regulating work and work conditions, and workers’ rights.” Then the General Personal Status Law restricts this right by requiring the consent of the husband.

In Greek Orthodox Personal Status Law, Article 22^[16] states: “A woman lives with her husband in the marital home unless she is compelled to reside in another for financial or legal necessities, provided it occurs with the consent of her husband.” This article remains the foundation despite the fact that the law mentions the case of a husband’s insolvency when the wife is well off, imposing maintenance on the wealthy wife. Article 24 states that “a well-off woman is obligated to support her insolvent husband and provide for the family.”

Syriac Orthodox Personal Status Law^[17] took the same direction stipulating in its Article 33: “The wife is obligated to obey her husband by entering into contract, and she must accompany him to any place, even if it is distant, except when necessary and when the ecclesiastical court is convinced of her excuse.” It emphasized the same thing in Article 34: “The husband is obligated to pay for his wife and minor children’s maintenance for food, clothing and housing, as well as service when sick and weak, according to his

[13] Seven laws, as well as articles from the General Law for Muslims, specific to the Druze community.

[14] Issued by Legislative Decree No. 59, dated 7/9/1953.

[15] Law No. 4 of 2019, amending some articles of the Personal Status Law promulgated by Legislative Decree No. 59 of 1953 and its amendments, dated 02/07/2019.

[16] Law No.23 of 2004

[17] Law No.10 of 2004

financial situation.” Even in the event of the husband’s insolvency, he remains obligated to provide housing for his wife, even if it is in joint housing. Article 35 states: “If the husband’s is financially poor and it is possible, depending on the custom of their town, to live with his wife in the same house with other family members of his religion, who are known to be of good morals, then he is not obligated to accommodate his wife in a separate house, but on condition that in any case they have a room of their own.” Syriac Orthodox law obliges the husband to furnish the accommodation, as stated in Article 36: “A legitimate house is considered that which contains necessary facilities for a normal residence, and the husband must furnish it according to local custom.”

Catholic Personal Status Law^[18] is the first Christian personal status law to make many amendments that tended strongly towards equality, although it did not achieve so in full form. The law devoted a number of articles to the subject of housing, to the extent that it permitted separate property for each of the spouses, or joint property for them both if they so desired.

Article 22 addresses the necessity of securing housing for a minor by the legal guardian, and this developed into the right to separate housing when released from guardianship: “1- A minor necessarily keeps the domicile or quasi-domicile of the one to whose power he or she is subject. After passing beyond infancy one can also acquire a quasi-domicile of one’s own; and one who has been legally emancipated according to the norm of civil law can also acquire a proper domicile.” In the case of married couples: “3- Spouses may have a common domicile or quasi-domicile; either can have a proper domicile or quasi-domicile by reason of some just cause.” (Canon 914 of the Code of Canons of Oriental Churches).

Article 39 addresses the right of each spouse to manage his/her property individually, or otherwise by agreement in writing: “Each of the spouses retains ownership over and the right to manage and benefit from his/her money and the fruits of his/her labor, unless they agree otherwise in writing.”

The meaning of alimony is defined in Article 107, including providing housing: “Alimony is all that a person needs to live a decent life relative to his/her peers, and includes: Food, clothing and housing for all, medical treatment for the sick, service for the disabled, and education and upbringing for the young.”

[18] Law No.31 of 2006

Like other Christian personal status laws, Article 108 affirms the husband's obligation to maintain alimony, including housing: "Alimony is owed in principle by the husband to the wife, and in exceptional cases, by the wife to the husband. It is also obligatory from parents to children, and from children to parents, in accordance with the provisions of this law."

This obligation was reiterated in Article 121: "1- The husband is obligated to provide alimony to the wife from the time the marriage contract becomes valid, whether she is rich or poor, residing with him or separated from him for any reason for which she is not guilty."

He remains obligated to provide alimony, even if he is poor, if his wife is poor, as stated in Article 123: "1- A poor wife does not lose alimony from the husband, even if he is poor, sick or imprisoned. Rather, it remains a debt he must pay once he is able." However, maintenance (including housing) is imposed on a wealthy wife in the event of her husband's insolvency, in Article 123: "2- There is no maintenance due to a wealthy wife from her insolvent husband who is incapacitated to earn; rather, he is owed maintenance from her until he emerges from his condition."

The law reiterated that housing is the husband's duty, in Article 125: "1- The husband is obliged to accommodate his wife in a house to her standards if they are both affluent, otherwise he is obliged to accommodate her in a house to his standards with legal facilities and neighbors, according to the spouses' situation. 2- If he accommodates her in a house to her standards, where resides one of his relatives, she cannot request another dwelling unless they are harming her physically or verbally."

Armenian Orthodox Personal Status Law did not explicitly state that securing housing is the husband's duty, but it did stipulate that it is the wife's duty to reside with the husband and follow him to the place of his choice for housing. In Article 47: "The wife should take the surname of her husband's family, live with him, and follow him wherever he thinks fit to dwell. The husband should accept his wife into his home, and provide her with all the necessities of life according to his ability."

Personal Status Laws for Evangelical Doctrinal Courts in Syria and Lebanon, Article 31: "Marriage requires the husband to provide for his wife, to house her according to his ability, and to protect her."

As for inheritance, personal status laws differ in their provisions addressing inheritance, in three aspects: The first is in differentiating between men and women in inheritance shares; the second is in determining percentages of inheritance or not specifying this; and the third is in guaranteeing the right to housing for a husband or wife after the spouse's death.

The General Personal Status Law^[19] distinguishes between men and women in inheritance shares, in accordance based on a verse in the Quran that specifies a male's portion as equal to that of two females. Article 268 states: "1- A husband has a share of one half if there is no child or grandchild by a son, and one-fourth if there is a child or grandchild by a son. 2- A woman, even when revocably divorced - whose husband dies while during her 'Iddat' waiting period - has a share of one-fourth if there is no child or grandchild by a son. And one-eighth if there is a child or grandchild by a son." Article 297 took the same direction, stating: "1- In the inheritance of uterine relatives, males shall have the same share as two females in all circumstances."

Jurisprudence on these provisions varies from those who insist on "no Ijtihad of the Quran," and those who see that everything is open to Ijtihad, especially considering the context of the verses; to those who believe a radical change took place in our country with adoption of the law transferring Amiri funds, which states in Article 2: "... Male and female children and grandchildren shall have equal right to transfer;" to those who say all laws must be consistent with the constitution, the country's supreme law: if the constitution stipulates equality between men and women, this equality must prevail in all laws.^[20]

A woman whose husband dies before his parents, will not receive any of her husband's inheritance share that he could have inherited from his parents. Article 257 amended in^[21] 2019 stipulates: "1- If a person dies and has grandchildren by a son or daughter, and the son or daughter died before or with him, his grandchildren shall receive one third of his estate. 2- This obligatory will takes precedence over optional wills in bequeathing one third of the estate."

Provisions of inheritance and will (a form of obtaining property ownership) differ in the Druze community, mentioned in exceptions of Article 307:^[22] "Nothing in violation of the following provisions shall be considered for the Druze sect: H- A will is executed for the heir and others as one third or more. I- The child that dies before the parent, leaves his children in his place and they take his share as if he were alive." Although the rules of inheritance in the Druze community allow for wills unconditionally, a will is often used to deprive women of inheritance shares.^[23]

[19] Issued by Legislative Decree No. No. 59, dated 7/9/1953.

[20] The Tunisian government's argument in approving the draft law on equality in inheritance before referring it to the Tunisian Parliament.

[21] Law No. 4 of 2019, amending some articles of the Personal Status Law promulgated by Legislative Decree No. 59 of 1953 and its amendments, dated 02/07/2019.

[22] Personal Status Law. Issued by Legislative Decree No. No. 59, dated 7/9/1953.

[23] Testimonies from the research of the Syrian Women's Association, Discrimination in Personal Status Laws: A Comparative Research, Atar House, 2009-2010.

Catholic personal status law^[24] was the first Christian personal status law to be amended towards equality between men and women; although it did not achieve the desired equality in all its articles, it did so in provisions for inheritance. Article 180 states: “1: Inheritances of secular members of the Catholic sects are distributed among heirs according to the following provisions: If a person dies, his fixed and mobile assets pass to his heirs according to the following categories: 1- First-category heirs: F- Male and female children and grandchildren are equal in their inheritance shares. 1- Second-category heirs: A - Second-class heirs are the parents of the deceased. B - If both parents are alive, they shall have equal right of transfer. ... 5- Inheritance of spouses: A- The deceased’s husband or wife receives one-fourth of the estate when there are first-category heirs. b- The share is half when there are second or third-category heirs. c- If there are no first or second-category heirs, and no grandparents nor their children, the spouse shall have exclusive right of transfer.” This was also the first law to guarantee right to housing for a spouse after the death of their partner. Article 180 states: “7- In the event a spouse dies while the other is still alive, the marital home is not released for inheritance until after the death of the surviving spouse, unless the surviving spouse decides to relinquish it.”

We find the same thing in Orthodox inheritance and will laws;^[25] Article 10 protects the right of housing for the spouse whose partner dies. “In the event one spouse dies and the other lives, the living spouse continues to benefit from the marital home for life without the right to lease. The usufruct right is recorded in estate registries when transferring shares to eligible heirs, on the condition it is not leased. The above-mentioned usufruct is forfeited by marriage or if property is leased.”

Article 11 repeats the same classifications of heirs and inheritance rights: “Firstly: the estate of the deceased, fixed and movable, shall be transferred to his heirs according to the sequence of categories in this article. 1- First-category heirs: This class includes children of the deceased and their descendants, however far they descend. 1. Children of the deceased and their descendants inherit equally from their fathers and ascendants, without discrimination between males and females. 2. If the deceased has one child - male or female - then the inheritance is exclusively his/hers. 1- Second-category heirs: This class is the deceased’s parents. 1. In the event there are no first-category heirs, and no spouse, and parents of the deceased are alive at the time of his death, the estate shall pass to them equally. If one of the parents died before the deceased, the inheritance is limited to the other parent and passes to him/her in full. 2. If the deceased has first-class heirs, and both or one parent is still living, the share of one or both parents is one-sixth.” The same equality applies to brothers and sisters. Article 12 addresses the inheritance of spouses: “1. In the event there are first-category heirs, the share of the deceased’s spouse is a quarter of the estate. 2. ... the share of the deceased’s spouse is half of the estate. 3. ...the share of the deceased’s spouse shall be half of the estate ... the share of the husband or

[24] Law 31 of 2006

[25] Issued by Legislative Decree No. No. 7, dated 11/1/2011.

wife of the deceased shall be three quarters... 4. ... The husband or wife will have the right to the inheritance in full.”

Similarly, Armenian Orthodox laws of wills and inheritance^[26] stipulate in Article 28: “... Inheritances are distributed, and the deceased’s estate is transferred - rights, movable funds, and property - whether owned or Amiri, according to the following sequence and shares: ... Clause 1: Children of the deceased and their descendants inherit equally from their fathers and ascendants, without discrimination between males and females. If the deceased has one child - male or female - then the inheritance is exclusively his/hers. If the deceased does not have first-category heirs, the estate passes to his surviving parents equally. .. a. The deceased’s spouse receives 1/4 of the estate in the event there are also heirs of the first category. b. The deceased’s spouse receives 1/2 of the estate... c. The deceased’s spouse receives 5/6 of the estate... d. The husband or wife of the deceased shall be entitled to the full estate.” This law differs from other Christian laws in that it does not guarantee the right to housing for the husband or wife after the spouse’s death.

Although the Evangelical community was late to issue new laws governing wills and inheritance,^[27] they did stipulate equality in inheritance, and specified in Article 1 that “use of the masculine form also implies females unless otherwise specified.” Article 17 defines the first category of heirs and inheritance rights: “The children of the deceased and their descendants inherit from their parents and their ascendants without discrimination between males and females. If the deceased has one child - male or female - then the inheritance is exclusively his/hers ... If the descendants are all of the first degree, they share the inheritance equally among them.” Article 18 specified the second category: “This category is the deceased’s parents if they are living at the time of his death and he has no descendants or spouse, then the inheritance passes to them equally.” Article 19 specified the third category: “This class is the deceased’s siblings ... and the deceased’s grandparents ... The inheritance shall be distributed among the above-mentioned ... equally amongst them.”

Article 21 addresses the inheritance of spouses: “a. In the event there are first-category heirs, the share of the deceased’s spouse is a quarter of the estate. b: ... the share of the deceased’s spouse is half of the estate. c. ... the share of the deceased’s spouse is half of the estate. d. ... the share of the deceased’s spouse is three quarters of the estate. e. ... The husband or wife will have the right to the inheritance in full.” As for the marital home: “a. If one of the spouses dies, the surviving spouse shall continue to benefit from the marital home for the rest of his life unless he gives up this right. b: The usufruct right is recorded in estate registries when transferring shares to eligible heirs, by ruling of the competent Evangelical court. c. The usufruct right mentioned in paragraph (2/a) above shall be forfeited if the holder marries or rents the house without the permission of the Evangelical court. The court’s decision is subject to appeal.”

[26] Law 4 of 2012

[27] Law No. 2 of 2017.

Inheritance among members of different religions: some personal status laws do not allow inheritance to members of different religions, while some permit it provided the treatment is reciprocal. This is not the case in Syria. This affects Christian wives of Muslim men who have kept their religion: they do not inherit from their husbands nor sons and daughters, nor can they bequeath their husbands, sons or daughters.

We find that, unfortunately, customs and traditions influencing and influenced by old laws are stronger than the law itself, in the absence of a suitable environment to develop customs and traditions in line with requirements for achieving justice and equality between men and women.^[28]

3- Miscellaneous legislation (laws, decrees, decisions) after conflict began in 2011

The Syrian revolution of 2011 and the armed conflict that followed did not create the property rights problems, but they played a role in their emergence. Property rights issues - especially real estate - are the accumulation of political and legal problems caused by the regime since it took power, culminating in a set of laws that facilitated property loss, especially among the opposition and displaced persons. After the Syrian revolution began, property and housing rights issues became more complex for many reasons; most importantly, the regime issued many legislations after 2011 that threatened property rights.

These different legislations, even if they do not explicitly mention women, had negative repercussions on property and housing rights and their complexity makes it more difficult for women to enjoy property ownership rights.

Some of these laws are:

- Legislative Decree No. 66 of 2012
- Legislative Decree No. 40 of 2012
- Law No.23 of 2015
- Law No.33 of 2017
- Law No.10 of 2018
- Decree No. No. 104, dated 21/8/2011.
- Counter-Terrorism Law in Syria
- Law establishing Terrorism court.
- Judicial Police Authorities Decree.

[28] We will review this later when discussing women's property and housing rights in Syria and related challenges.

- Circular No. 4554 addressed to the Minister of Local Administration.
- Law No.35 of 2017
- Issuance of Prime Minister’s Decision No. 57 of 2018 amending Resolution 851.
- Resolution No. 851 of 13/3/2014 establishing a committee to freeze the funds of persons and entities specified in Security Council Resolutions 1267 (related to the Taliban and al-Qaeda) and 1373 (approved after the September 11 attacks). Although a large number of names mentioned in the rulings by this committee have nothing to do with the aforementioned Security Council resolutions.

There is no doubt the impact of these laws - which affect housing and property rights - will be greater on women, even though they target all Syrians in general without discrimination. This is because the regulatory laws provide for free deduction of a percentage of the property, which can reach 40% of the property area, and other procedures that take away from property owners’ shares; and since women generally own less property, this makes their share insufficient to provide them with housing, and their shares are transferred into stock with the only option of selling, thus changing her ownership rights into a sum of money.

Moreover, these laws do not acknowledge the changes that occurred during the conflict, nor that half of the Syrian population is displaced, with large numbers unable to show ownership deeds. Consequently, a woman who had the right to live with her family will find herself unprotected, especially in the absence of a husband, and these risks increase with large numbers of detainees and missing persons unable to protect their property, negatively affecting women.

II: In areas controlled by the “National Army” (Syrian Interim Government)

The interim government was established in 2013, and it administers areas controlled by the “National Army” forces, in several regions in the north of the country. Currently, their control extends over the area between Ras al-Ain and Tal Abyad in the Syrian Jazeera region, after the military operation “Spring of Peace” launched by the Turkish army and implemented during the fall of 2019. Afrin, northwest of Aleppo, is also under the influence of these forces, after Turkey’s “Olive Branch” military operations in 2018. Close to Afrin, National Army forces took control of areas in the northern countryside of Aleppo, between Jarablus and Azaz, after the “Euphrates Shield” operation against ISIS in 2016.^[29]

[29] The Day After, Research 2020, Property Procedures in Areas Outside Regime Control, December 2020. Available at:

<https://tda-sy.org/wp-content/uploads/2021/04/HLP-AR.pdf>

The Interim Government did not develop any laws that guarantee women's rights, and kept following the General Personal Status Law, which discriminates against women in many areas.^[30]

III: In areas controlled by “Hay’at Tahrir al-Sham” (Salvation Government)

Formation of the “Salvation Government” in northern Syria was announced on November 2, 2017,^[31] and it took over from its affiliated “Civil Administration for Services” in Idlib the directorates and institutions for water, electricity, civil registry, local administration, and agriculture.^[32]

On implementing what HTS calls “the provisions of Islamic Sharia,” lawyer Muhammad Haj Abdo^[33] affirms in a brief interview that the only provision applied in Idlib is that of determining legal inheritance, while the law on transferring Amiri lands is not recognized.

IV: In areas controlled by the “Autonomous Administration”

The AA, in its Charter of the Social Contract by the Democratic Autonomous Administration of Jazeera Canton in Syria, ensured equality regardless of gender: ““Of our free will, we declare this contract will achieve justice, freedom and democracy in accordance with the principle of environmental balance and equality with no discrimination on the basis of race, religion, creed, sect or gender,”^[34] while “guaranteeing women’s rights.”^[35] The Charter of the Social Contract^[36] also guarantees the right to housing, in Article 30: This Contract guarantees every citizen: The right to security, safety and stability... The right to obtain work, adequate housing, and social and health security.”

Article 41 also guarantees the right to own property, stating: “Everyone has the right to own property, private property is protected, no one is deprived of disposing of his property except in accordance with the law, and it shall not be expropriated except for purposes of public interest, provided he is given fair compensation in the event he releases his property.”

[30] We will review this discrimination later in this study.

[31] <https://www.enabbaladi.net/archives/275762#ixzz74HKZOn5o>

[32] <https://www.enabbaladi.net/archives/183534#ixzz74HN0v1dH>

[33] Interview for purposes of this research.

[34] Approved in session No. 1, dated 6/1/2014.

[35] Ibid.

[36] Ibid.

“The Autonomous Administration of North and East Syria, through its newest government established under the “Syria Conference,” has founded executive offices corresponding to the ministries, including the Justice Office whose work corresponds to the work of the Ministry of Justice. Property registries have been attached to the Office, and there is also an office for property documentation in each of the provinces (based on the administrative divisions officially approved by the Autonomous Administration).”^[37]

The General Council of the Autonomous Administration of North and East Syria, which performs the functions of the legislative authority, issued Law No. 7 on the protection and management of absentee property, but the AA canceled it one week after its announcement,^[38] following widespread popular objection, with the excuse that this law could be used to legitimize confiscation of absentee and forcibly displaced persons’ properties. The General Council of the Autonomous Administration issued Resolution No. 3 to halt implementation and reconsider its form.

As for guaranteeing women’s rights, basic principles, and general provisions in the Women’s Law^[39] emphasizes the following: “2- Equality between men and women in all areas of life. 15- Equality between men and women in all inheritance matters, regulated according to the law specific to inheritance.” However, this law on inheritance issues has not yet been issued, and implementation of the law faces significant social obstacles.

Author Abbas Ali Moussa^[40] asserts that “the unfairness towards women, depriving them of one of their basic rights (right to inheritance) is an issue in which social and tribal customs play a prominent role, as anything considered ‘socially shameful’ is forbidden, even if guaranteed by the law and Sharia.” The author affirms that “in the Yazidi religion - which believes both sexes are equal in matters of inheritance”^[41] and in society, women are deprived of their inheritance.

There are still people who turn to religious establishments to solve inheritance issues. He says: “Mullah Muhammad Gharzi, Head of the religious institution, affiliated with the Autonomous Administration: If someone seeks us at the religious establishment with an inheritance issue, we will rule according to Islamic rules, but if he goes to the Autonomous Administration, they will rule according to their man-made laws.”

[37] TDA, Research of 2020, December 2020.

[38] Autonomous Administration: Law to protect or confiscate absentee property? 12/08/2020. Available at: <https://bit.ly/3y7yqqg>

[39] <https://www.pukmedia.com/AR/details/?Jimare=45047>

[40] <http://www.rok-online.com/?p=5548>

[41] Ibid.

Chapter Three

Other factors affecting the security of property and housing rights



The gender gap in property ownership cannot be explained solely by gender discrimination in laws; Syrian property laws give women the same share as men in Amiri lands, and half of a male's share in owned property and lands. Thus, women should own - based on the law - between 40% and 45% of property, as most of the lands in Syria are Amiri lands where women inherit the same share as men.

In reality, however, women own much less property than that. In the absence of recent official statistics, official statistics issued by the Syrian state are used for reference. A survey carried out by the Central Bureau of Statistics in 1995 indicated that only 5% of women owned land, 4% owned livestock and 1% agricultural machinery.^[42]

I: Causes of the gender gap in ownership before the conflict

1 Social and cultural reasons

Customs and traditions play a major role in ensuring women obtain their rights, especially in countries that have not yet seen technical and civilized progress, where pre-civil relations still linger, women have not yet entered in full force into various fields of work, and values of freedom and gender equality have not yet prevailed, in these places, social justice and sustainable human development remain elusive.

For example, discrimination between men and women in property ownership remains a problem that women suffer from in many countries in the world, according to a joint publication between the Office of the United Nations High Commissioner for Human Rights and UN Women: "In the last 10 years alone, at least 80 million hectares of the world's land has been acquired in large-scale land deals, an area 20 times the size of the Netherlands. However, reports state - in this context - that only one percent of the world's women actually own land."^[43]

In Syria, women suffer from clear discrimination in all fields, including their low rates of access to property. Perhaps one of the most important reasons behind this discrimination is social and cultural norms. This factor - although it differs from the countryside to the city, and from one region to another - remains an important factor obstructing women's rights in general, and property rights in particular.

Societal norms stemming from a patriarchal culture prevail, resulting in a system of customs and traditions that consolidates the dominance of men over women, and the right of

[42] Role of Women in Agriculture and Gender Issues in Syria, Ministry of Agriculture and Agrarian Reform, National Center for Agricultural Policies. Available at:

http://www.napcsyr.gov.sy/dwnld-files/divisions/rdd/pubs/pol_brf/ar/10_women_role_ar.pdf

[43] OHCHR-UN Women joint publication, Office of the High Commissioner for Human Rights. Available at: <https://www.ohchr.org/AR/NewsEvents/Pages/AccessToLandForWomen.aspx>

men to own everything and control family property, especially agricultural lands, as there is a belief that “land is honor” and must remain within the same family. This culture has contributed to depriving women of their right to inherit.

“Results of a field study on violence against women conducted in 2005 in cooperation between the General Women’s Union, the Syrian Commission for Family Affairs, the Central Bureau of Statistics and the United Nations Housing Fund, with a research sample of 1,891 families from urban and rural areas in the 14 governorates, concluded that 17.4% of women did not receive any of their inheritance rights, 14.7% in urban areas compared to 20.2% in rural areas, and 24% of women received compensation for part of their inheritance.”^[44]

There are many ways to deprive women of their right to inherit. In some cases, the father, or even the mother, deprives daughters of inheritance by transferring property ownership to male children; or after death, males pressure the females to transfer property ownership to their brothers, with the excuse of customs and traditions. In some cases, women are compensated with money or gold instead of their right to own property, and soon these savings are spent on the family, and property remains in the hands of the males. This leads directly to a decrease in the percentage of women who own property. This was confirmed in the 10th five-year plan document, in the chapter on women’s empowerment, where “some basic indicators that explain the differences between men and women with regard to access to social, economic and political opportunities”^[45] show that the percentage of land owned by women does not exceed 5% (as mentioned previously, which means the same percentage persisted for more than 10 years), and that the percentage of female beneficiaries of small loans 1/4/2002 - 31/12/2004 (Unemployment Control Body) did not exceed 16%; as obtaining small loans requires property as collateral for the bank.

2 Political and legal reasons

The structure of the state in totalitarian regimes is characterized as a male-dominated patriarchal structure, based on the domination of one party over the country, which relies on force through inherently patriarchal institutions, such as the army and security, so that all state agencies, authorities and social institutions become hostage to this party, which delegates its Secretary-General to lead the whole country. This is what Article 8 of the 1973 Constitution expressed: “The Arab Socialist Ba’ath Party is the leading party in society and the state, and it leads a progressive national front that works to unify the energies of the masses and direct them into serving the goals of the Arab nation.”

[44] TDA, Gender Sensitive Transitional Justice, Lama Kannout, p. 137.

https://tda-sy.org/wp-content/uploads/2019/09/Gender-sensitive-transitional-justice_AR_compressed.pdf

[45] State Planning Commission, 10th Five-Year Plan Document, Women’s Empowerment chapter.

Because of the totalitarianism of the Syrian regime, the country entered a dark tunnel with no space for political and civil action, the formation of women's associations was banned,^[46] and popular organizations led by the Baath Party dominated community work; these organizations were the "voice of the Party among the masses," resulting in the absence of the "voice of the masses," and women were denied the ability to influence decisions affecting their life.

All this led to a monopoly by the ruling party over representation of social groups, together with its popular organizations and allied forces, and women's representation was limited to members of the General Women's Union, whose representatives in Parliament are chosen by the political leadership (People's Assembly) at all appointed and elected levels.

Therefore, Syrian women do not enjoy adequate representation in the legislative authority, only exceeding 12% once. All this led to the arrival of Baathist women to Parliament, who were committed to the decisions of the political leadership and whose demands did not reflect the real needs of women guaranteeing their rights and overcoming obstacles, including those of ownership.

Women's representation in the government - since the appointment of the first female minister in 1976 - has not been reflected in the lives of women and has not championed their causes, despite the number of women ministers increasing to three, because of the restrictions on women's representation in various ministries to Baathist women or to those allied with the Baath Party.

All this deprived the feminist movement of the freedom to work, the ability to influence government decisions, and even the ability to influence women in various decision-making positions; this is because women in these positions were indebted to whoever put them in decision-making positions.

3 Economic reasons

Economic activities and mechanisms of wealth distribution are reflected on property ownership. In Syria, social, political and legal reasons have limited women's ability to contribute to the organized economic sector, and most of women's economic contributions remain in the unorganized sector or in unrecognized domestic work, including women's work on family property and land, and this reflects on their ability to own property.

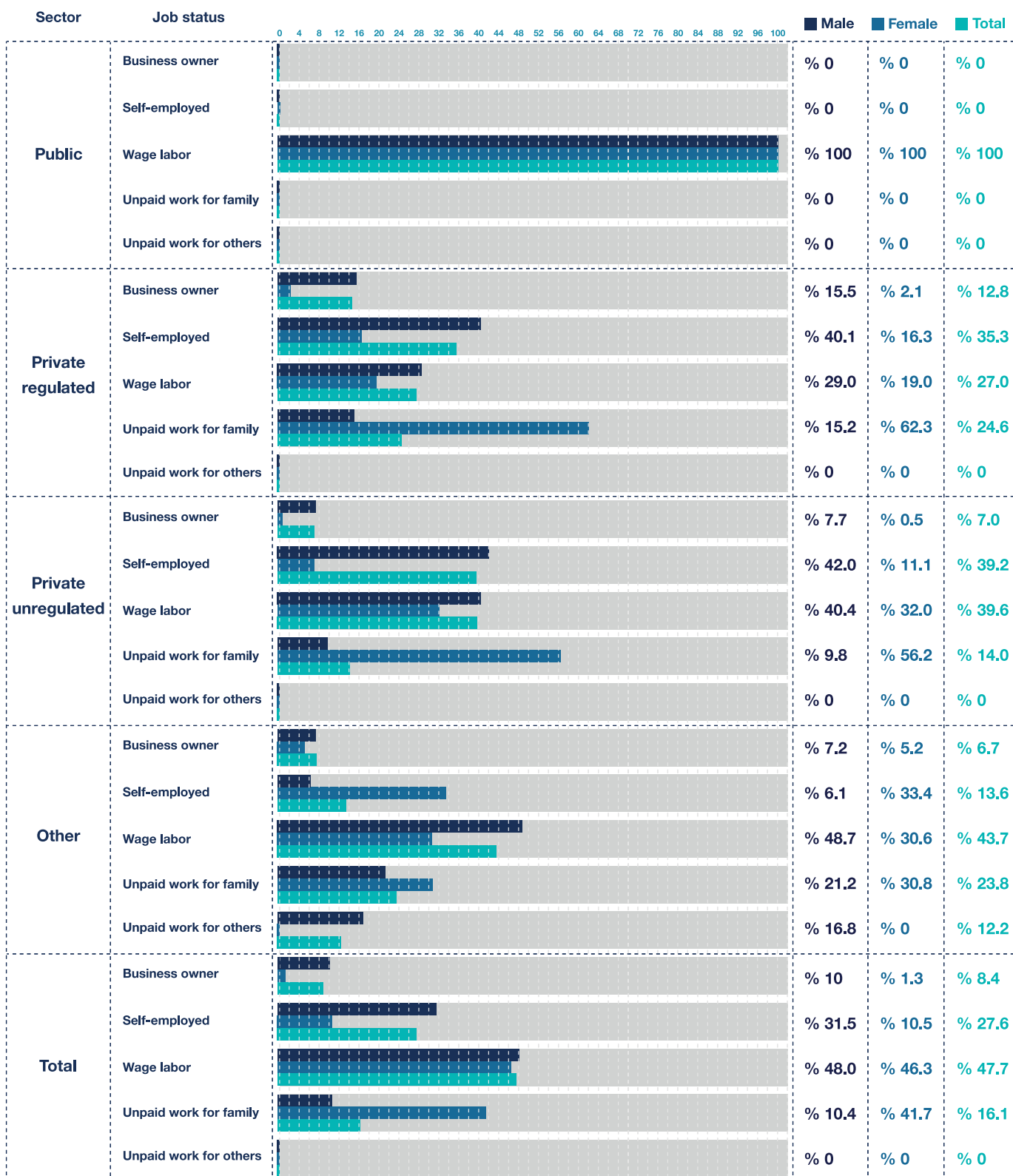
[46] Administrative Instructions to prevent the formation of women's associations, No. (9/D/62), dated 8/8/1974.

Contributing to this gap is that women's work often does not generate income for them that can be converted into capital to invest in property. A large percentage of women work in household chores that do not generate income for them, while men work outside the home; when money is saved in the family, the man expands his ownership by buying property in his name, leaving his wife without, as her work in the house did not directly generate the funds.

Rural women live in more difficult conditions, because they are charged with household chores in addition to free labor on the land, typically without any financial return. She works with her family - husband, father or brother - on the land, farming and caring for animals, without any direct financial return for this work; the returns go to the family, represented by the "head of the family" who is a man, and if they save money, property ownership is expanded under the man's name.

Based on official reports issued by the Syrian state, according to the results of a labor force survey in 2002, those in the age group 15+ who work for their relatives without pay were as follows:^[47]

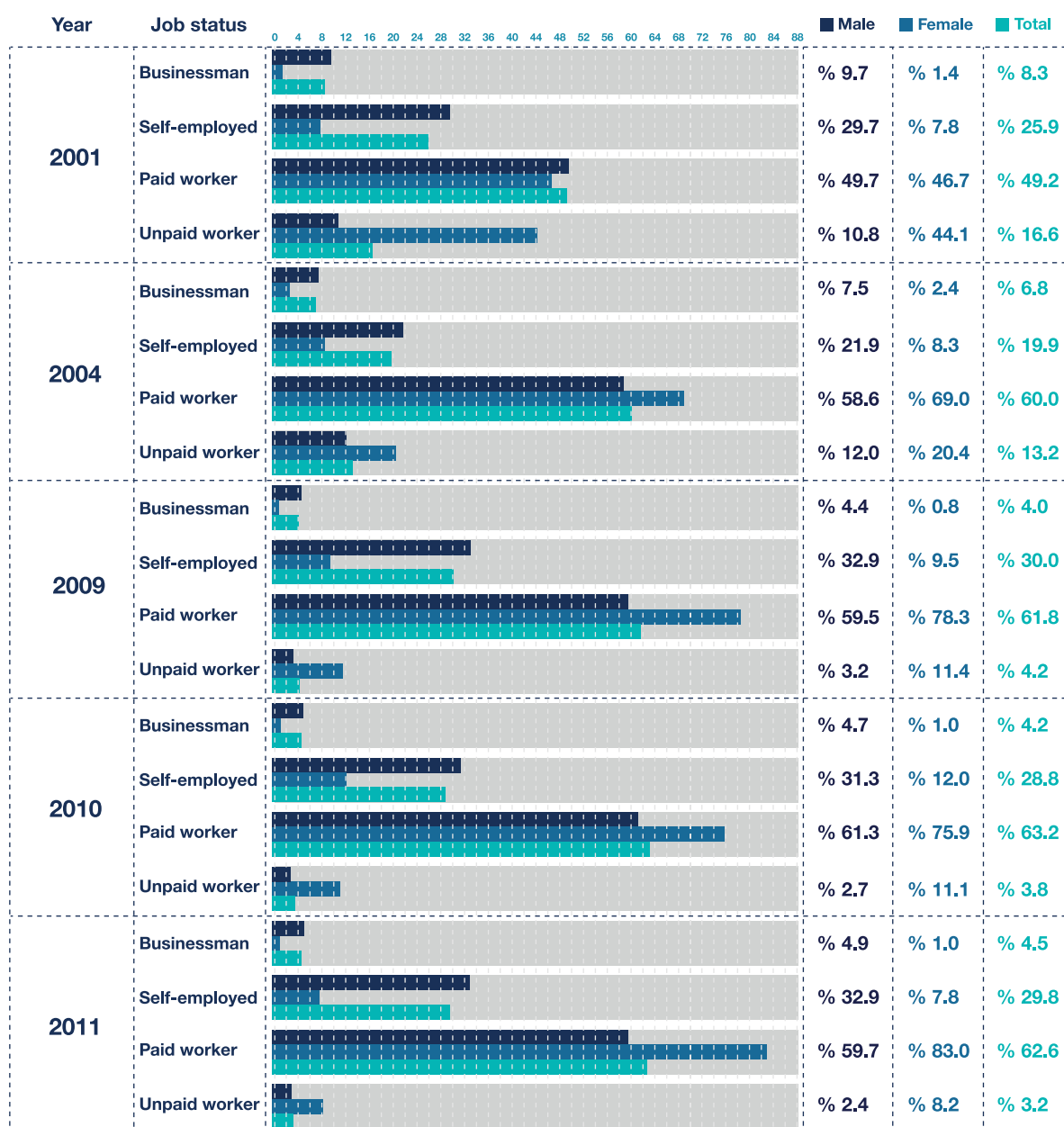
[47] Report on the Syrian Arab Republic, Appendix No. 8, p. 58. Available at: <https://www.un.org/womenwatch/daw/Review/responses/SYRIAN-ARAB-REPUBLIC-Arabic.pdf>



In the organized private sector, the percentage of males who worked unpaid for their relatives was 15.2%, while the percentage of females was 62.3%.

In the unorganized private sector, the percentage of males who worked unpaid for their relatives was 9.8%, while the percentage of females was 56.2%.

These figures confirm our view that economic factors increase the gap between women and men in property ownership. The following table^[48] also confirms the persistence of the gender gap for years, in the numbers of males who work without pay as opposed to the numbers of females who work without pay. Although the number of women doing unpaid work is lower than those receiving wages, it is still double the number of men who do unpaid work.



[48] <http://cbssyr.sy/work/2012/TAB24.htm>

There are also many factors that directly affect women's ability to secure their rights to housing and property, such as education, and decision-making mechanisms at the family level. This will appear in the results of the questionnaire prepared specifically for this research.

II: The gender gap in property ownership after the conflict

Syrian women have paid the highest price in this conflict, suffered from siege, and forced displacement, and often found themselves responsible for supporting a family in the absence of men. The environment prior to the conflict had not allowed women to prepare themselves sufficiently to face such changes, and in complex economic conditions, they often do not have the capital or property to dispose of in order to survive.

Increasing women's burdens is the violent approach that the Syrian government took against its opponents, turning women into a tool with which to apply pressure. Furthermore, the spread of radical movements in the opposing camp prevented them from exercising their role.

All of these reasons were accompanied by the persistence of pre-conflict conditions, and women found themselves facing major economic challenges, reflecting on property ownership, and they were often no longer able to obtain new property and often forced to abandon their limited existing properties.

Data from the Central Bureau of Statistics confirm this in a survey of some governorates in 2019, showing the percentage of females owning economic and social establishments amounted to 8.43%, while the percentage of males was 85.48%^[49]

As for the impact of property laws issued by the regime after 2011, the gender impact has not yet become clear, except to note that women's share in these properties is small and will be greatly affected if the deduction rate of 40% is applied. Additionally, the real impact of these laws will not appear until implementation of the new organizational schemes begins. Complicating the matter is the conflict in Syria, which has prompted millions of residents to leave their original places of residence to escape military or security operations. In many cases, under the barrage of bombing and destruction, people quickly flee without taking property documents with them, and everyone becomes threatened with losing property in the event of any change in the area, in addition to the complications of obtaining security approval for appointing legal representatives.

[49] Central Bureau of Statistics, available (in Arabic) at:
http://cbssyr.sy/Est_census/Est_Final%20Report_2019-2020.pdf

According to a report by the Norwegian Refugee Center, only 4% of the women interviewed had property documents in their names, and only 25% of families held property documents.^[50]

As for laws and security measures affecting many people on the opposition side, these have led - in the best of cases - to depriving them of part of their share in an inheritance or preventing their disposal of property, leading to seizure and confiscation of the properties of thousands.

Women's property problems are better understood from the interviews conducted for the purposes of this research. We came across the case of a feminist activist S. Z., who was unable to obtain approval from security authorities to receive a grant from her father who was distributing his property equally between his children before his death; her father died before the procedure could be completed, so the land (the grant) was included in the inheritance, and none of the brothers agreed to give up their share, with the result that the activist lost an important part of the land.

Problems with security approvals also apply to authorizing representatives, as opposition members are prevented from disposing of their properties when security approvals are denied for power of attorney so a relative can handle properties left behind. In other cases, relatives fear their connection to opposition members might result in security prosecutions, and they refuse to represent family members altogether.

This was the case for the feminist activist S. H., who was unable to obtain security approval to have a family member or friend represent her.

In an interview with former detainee, R. K., she mentioned she could not enter the embassy to request power of attorney for her sister to conduct inheritance procedures: "Our father died in 2010, and we have not yet gone through with inheritance procedures because the whole family is outside the country, except for two sisters; one died and the second cannot take over the procedures, especially since I, for example, cannot enter the embassy to apply for power of attorney because of my refugee status, and this in itself is an added difficulty to arrest. I am afraid of any subsequent punitive action, especially since I left while still under prosecution, and I do not know what the final judgment regarding my case is."^[51]

Former detainee, A. M. said: Despite promises "to drop all our charges and cancel our transfer to the terrorism court, they issued a precautionary ruling against us to freeze our assets. We were not delivered the notification or even a copy of it, and they insisted that our house must be handed over within a maximum period of 15 days and all incurred bills

[50] NRC, Housing, Land and Property in the Syrian Arab Republic, 2016. Available at: <https://www.nrc.no/globalassets/pdf/reports/final-nrc-syria-hlp-briefing-note-arabic-may-2016.pdf>

[51] Online interview with former detainee R.K.

must be paid, water, electricity landline, etc. and we did it. After the period had expired, they raided the house and forcibly removed the family living there at night and sealed the entrance with red wax. Shortly after, we received news that the house had been handed over to a leader nicknamed Abu Jaafar affiliated with the National Defense Militia in Jaramana, and he also seized the entire building area, although we never owned it, and he built a fountain and a terrace, and held his wedding party on the roof, and gave himself my bedroom and my children's room.

At the same time, my family and my in-laws were informed that our movable and immovable property, including our lands, had been frozen, even the real estate land my father had registered to my name as part of my inheritance.”^[52]

The Anti-Terrorism Law remains the biggest challenge facing opposition members, especially with the regime resorting to accusations of terrorism against them, and with the text of Article 11 of the Anti-Terrorism Law “The Competent Public Prosecutor, or his representative, may order the freezing of movable and immovable funds belonging to whoever commits a crime related to the financing of terrorist acts;” and Article 12: “In all crimes stipulated in this law, with a verdict of conviction, the court shall rule for the confiscation of movable and immovable funds and their proceeds.” Article 1 of the Judicial Police Law: “The Judicial Police Authorities, in the course of their investigations regarding crimes against national security, whether internal or external, and crimes mentioned in Law No. (19) dated 2/7/2012, may request in writing to the Minister of Finance to take necessary precautionary measures on movable and immovable funds belonging to the accused.”

In its war on opponents, men and women, the Syrian regime resorted to Legislative Decree No. 33 of 2005 to create the Anti-Money Laundering and Terrorism Financing Commission, which is “an independent body at the Central Bank of Syria, with judicial status and independent legal personality;” it is remarkable that this body is given judicial capacity.

The Authority's report for 2018 stated that the Authority's activities in 2018^[53] were: “Two allegations of terrorist financing offenses were submitted to the competent court, circulating 69 rulings to freeze funds issued by the Terrorism Court, 523 rulings in progress to freeze funds issued by the Terrorism Court, 180 rulings to freeze funds issued by military field courts, and 101 rulings in progress to freeze funds issued by military field courts.” This report gives a picture of the extent of confiscations under terrorism charges against opponents of the Syrian regime.

[52] Online interview with former detainee A.M.

[53] In Arabic: <http://cmlc.gov.sy/downloads/files/1632904094.PDF>

The Ministry of Finance under the Syrian government approved Resolution No. 1214 of 16/4/2014, which stipulates the establishment of the “Directorate of Confiscated and Seized Funds”^[54] in the Ministry’s central administration, and one of its tasks is to manage confiscated and seized funds.

The Syrian Arab Republic Official Gazette published in separate issues several lists^[55] of what it calls the “local list of terrorism,” but based on Security Council resolutions. For example, the Official Gazette published^[56] Book No. 1767/18 dated 9/12/2018 entitled “The Local List of Persons and Entities Designated under Security Council Resolutions 1267 and 1373.” By analyzing the “local lists of terrorism”^[57] published in the Official Gazette, we found the percentage of female opposition members, keeping in mind that these percentages do not reflect the real ones because it is not possible to obtain all the lists. In one of the lists,^[58] the number of Syrians was 368, including 7 women, or 1.9%. In another list,^[59] the number of Syrians was 360, including 6 women, or 1.66%. Note there is a repetition of some names in both lists. It is also worth noting that the difference between precautionary asset freezing rulings in corruption cases and those in what the government calls “terrorism cases,” is that in corruption cases they are often “guarantee of payment” of a specific financial value, while in “terrorism cases” the seizure of all movable and immovable assets occurs for no specific return, which means that the subsequent confiscation will include all movable and immovable property.

There are many news stories that tell of the Syrian regime confiscating the properties of thousands of opponents who were referred to the terrorism court, but this news is devoid of any gender sensitivity except when the property belongs to famous women, such as artists. It was reported in the news:^[60] “The competent court of the Assad regime in Damascus issued a memorandum of “property confiscation” against former official government and ministerial figures, opponents, army defectors and well-known Syrian artists.” Among the published names were the names of 9 female artists in a list of 58 names, an average of 16%.

[54] Syrian Arab Republic Official Gazette, Part One, Issue 18 of 2014.

[55] When we asked a worker in the Official Gazette about other regulations, he pointed out that some are not published in the Official Gazette, and that the Gazette has completely stopped publishing regulations since 2020.

[56] Part One, Issue 50 of 2018.

[57] The names of Syrian men and women only.

[58] Official Gazette, Part One, Issue 7, February 15, 2017.

[59] Official Gazette, Part One, Issue 50 of 2018.

[60] The regime confiscates the properties of opposition politicians, officials, and artists, April 7, 2015. Available (in Arabic) at: <https://bit.ly/31DILj3>

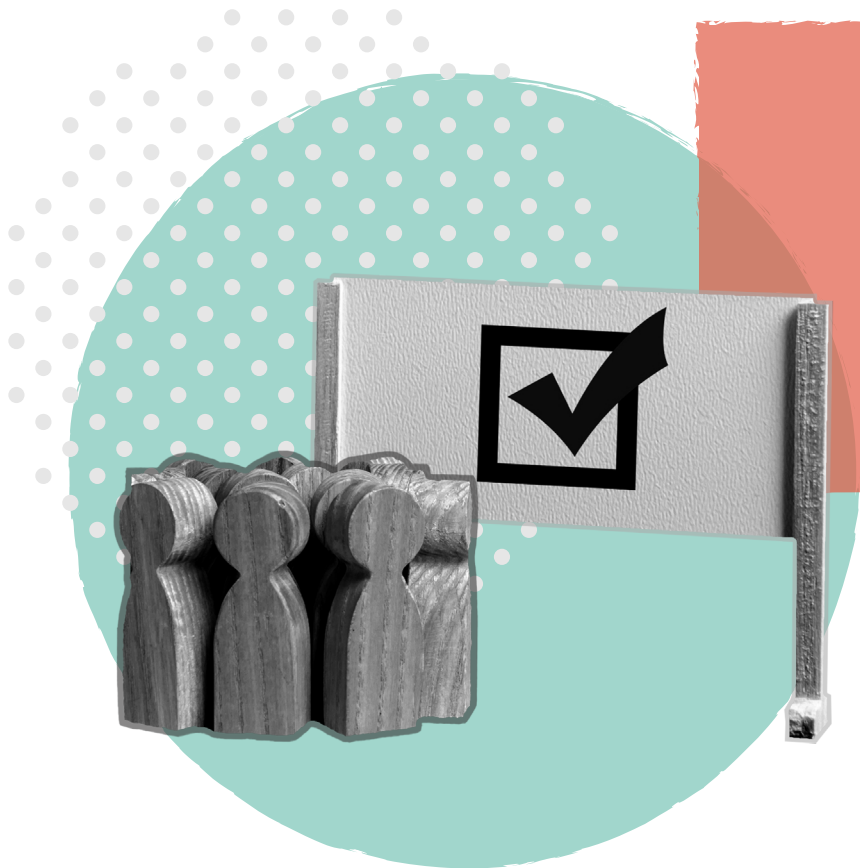
As the percentage of women owning homes is small, referring opponents to the terrorism court negatively affects families, including women, who lose their housing and may be surprised by security forces coming to expel them, as happened in the case of a detainee “in Syrian regime prisons, executed in Sednayah prison without his family’s knowledge, who were then surprised at the beginning of last winter by being forced out of their home in Damascus by the “State Property Department,” who ordered the confiscation because the house belonged to a “terrorist”^[61] In the same context, dozens of families were prevented from returning to their homes in al-Hosn and Yabroud, after these two areas returned to the regime’s control, under the pretext that “these families have men who fight with the opposition, and the families cannot return unless their armed men surrender”^[62]

[61] In Arabic: <https://www.enabbaladi.net/archives/441915>

[62] Meeting with feminist activist A.M., from Yabroud, and with an official in the Baath Party in Tal Kalakh Division of al-Hosn region.

Chapter Four

Questionnaire for this research



In order to clarify women’s property and housing rights, obstacles to receiving inheritance, women’s attitudes towards receiving inheritance, and the impact of amended laws on women’s empowerment in terms of HLP rights, TDA research team conducted a survey with a study sample of 250 women. Because the sample is small in number, the results of the survey cannot be generalized, but can give us a clear indicative picture of the situation, especially since it was conducted in various regions of Syria where there are Syrian refugee women. The questionnaire included women who fall under various personal status laws in Syria, with diverse educational backgrounds and professional status, with no regard for political affiliations and ideological positions.

The distribution of women participating in the questionnaire according to age was as follows:

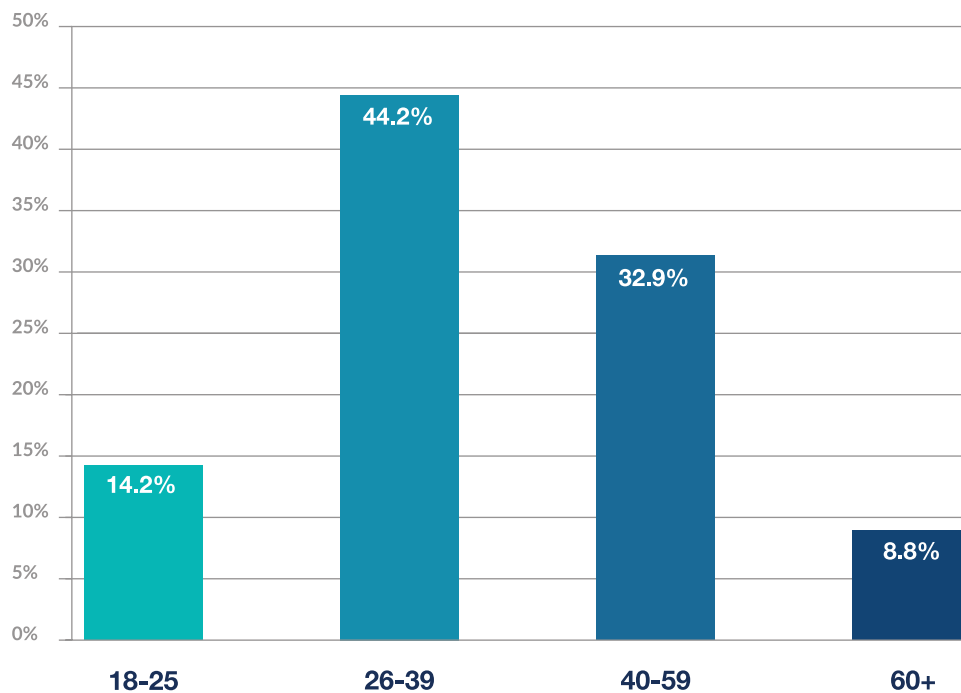


Chart No. 1 Distribution of women by age

Application of personal status laws follows the same range as reality: 78.8% fall under General Personal Status Law, 9.6% under Christian laws, 8.8% under exceptions for the Druze, and 2.9% distributed among Yezidis and women who did not know which law applied to them.

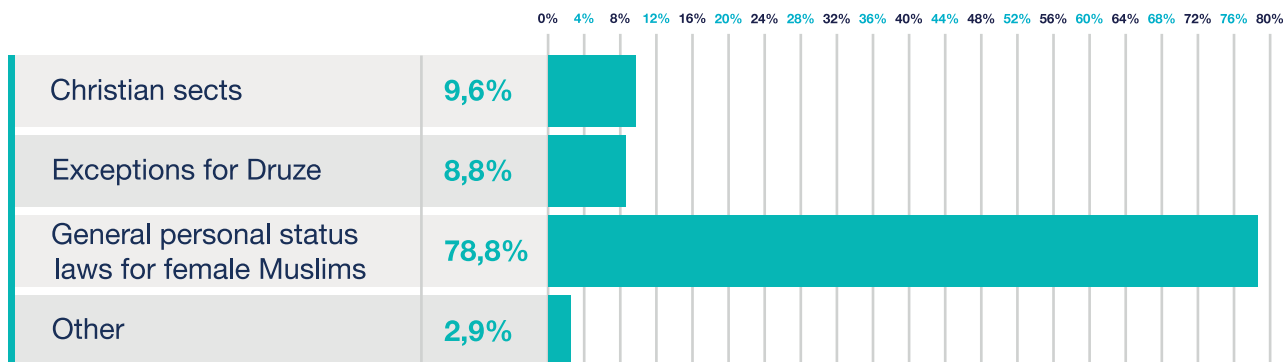


Chart No. 2 Distribution of participants according to the personal status laws they fall under

Among the women participating in the questionnaire were 16 women with special needs, or 6.7%. The women were distributed based housing before 2011: 54.6% are urban residents and 45.4% rural residents, with places of residence pre-conflict distributed over all the Syrian governorates.

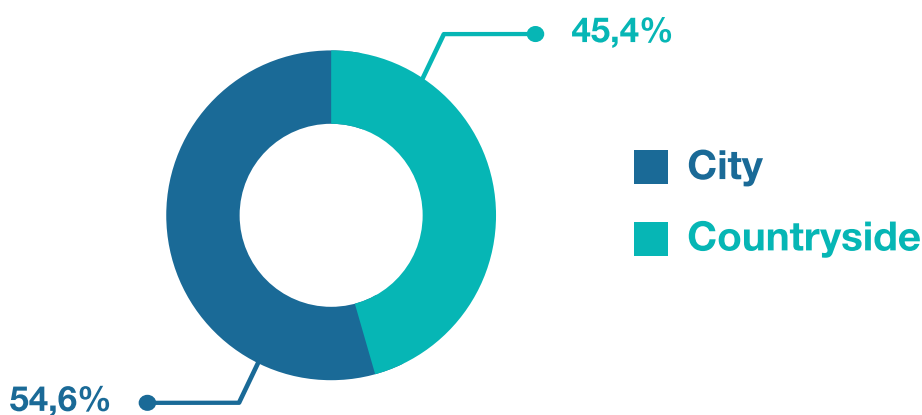


Chart No. 3 Place of Residence before 2011

Because of the armed conflict in Syria, or marriage, or the search for livelihoods, the respondents' areas of residence were varied, and included camps (refugee and displacement). Only 25.4% were able to stay in the same previous dwelling, and 12.1% were able to stay in the original area of residence but in new housing. 62.5% of respondents had to leave their original place of residence due to the conflict.

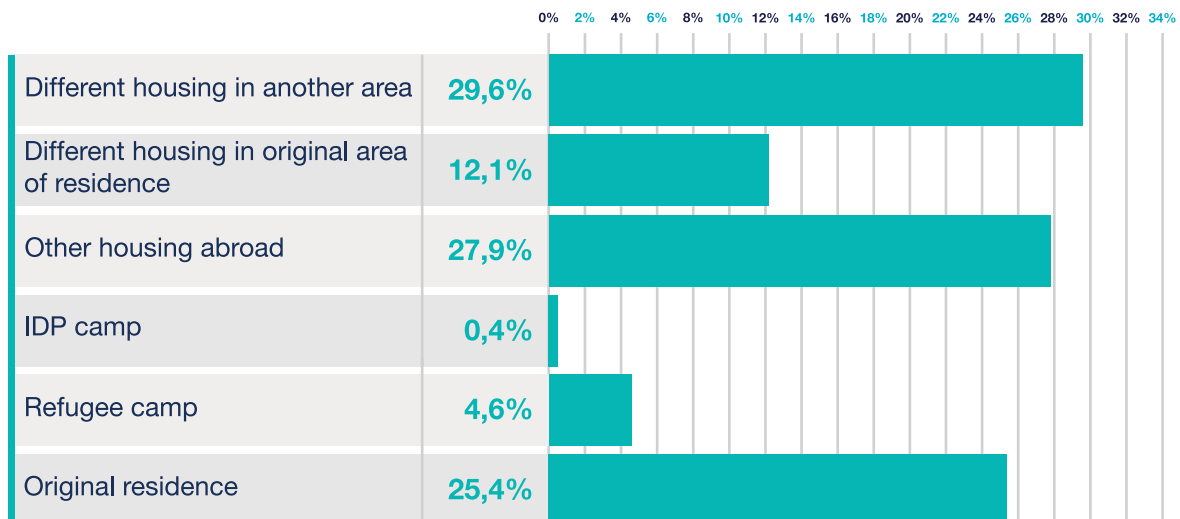


Chart No. 4 Current place of residence

The war was the main reason for change of abode, with 64.2% of participants who moved due to the war, while “other” includes risks of arrest, security prosecution, or moving to a relative’s house due to divorce or to support the family.

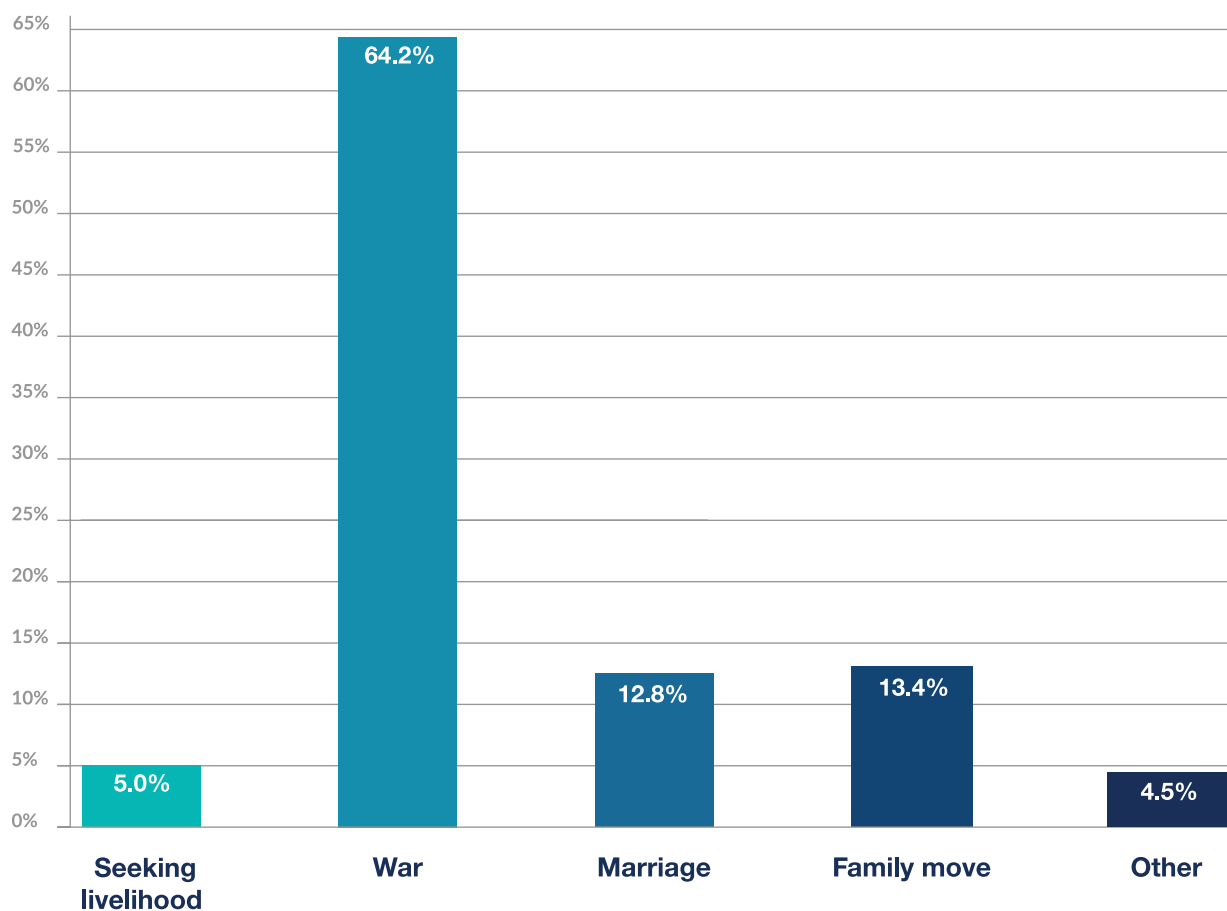


Chart No. 5 Reason for moving from original home

With regard to the education, it is not possible to generalize the results of the questionnaire, because there is a large shift towards obtaining a university degree, reaching 33.3%, and this can only be justified by the fact that the sample is small and unrepresentative, but we can see its influence on the attitudes of women participating in the questionnaire towards their rights to share in family property and towards inheritance issues.

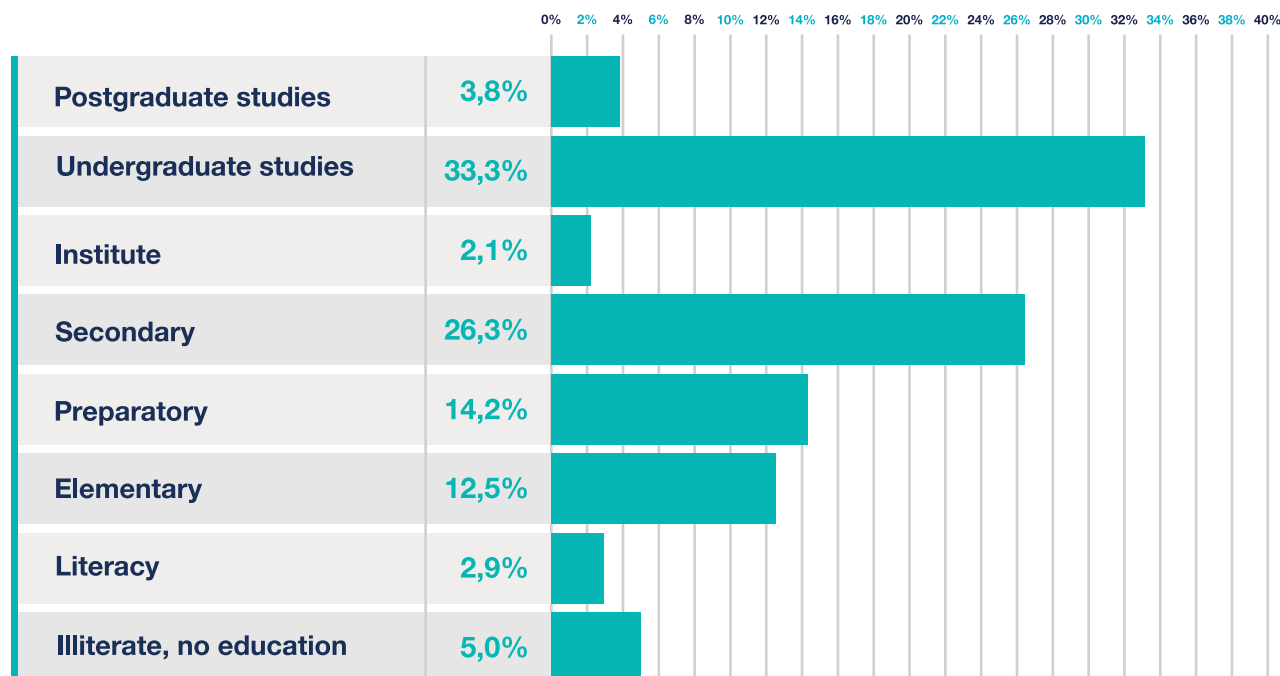


Chart No. 6 Educational level

We notice the effect of place of residence on the educational level, as it increases for women residing in the city compared to those residing in the countryside, most likely due to increased education opportunities in cities, especially for university and postgraduate studies, and support for girls’ education in the cities, while illiteracy and only pre-secondary education are higher in the countryside.

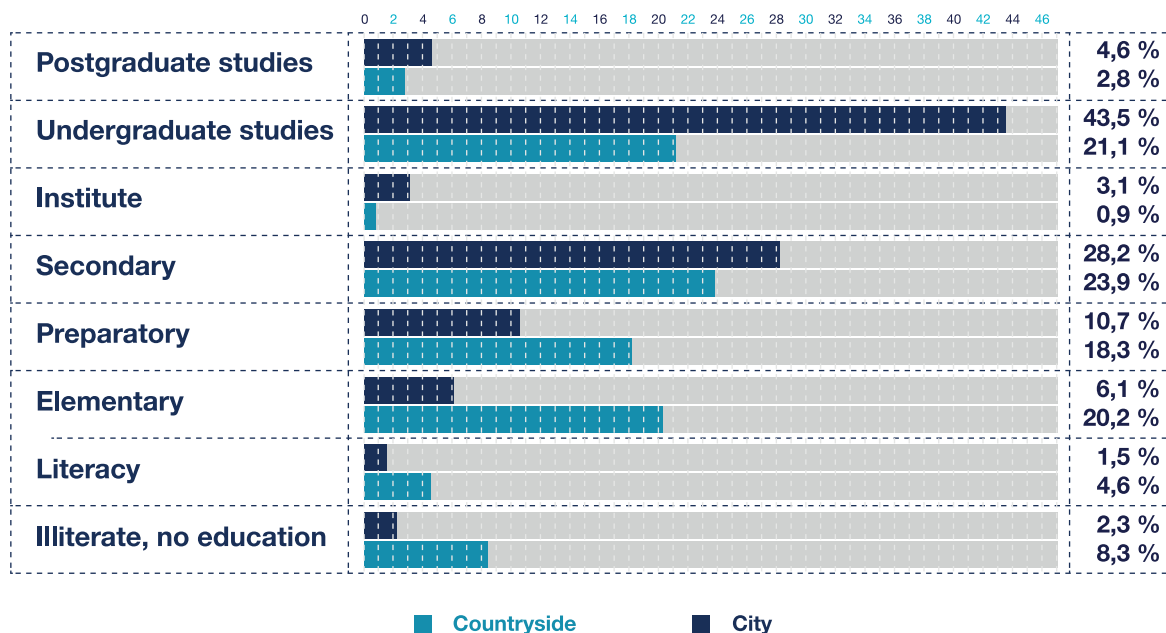


Chart No. 7 Education level by place of residence

Participation in the workforce is higher among participants in the cities (before 2011). Nevertheless, the percentage of women who do not work and do not want to work^[63] remains high, especially when we add full-time housewives who do not work and do not even want to work; the percentage then reaches 43%. The percentage of women participating in the survey who perform unpaid work for the family was over four times the percentage of women who worked for the family for pay.

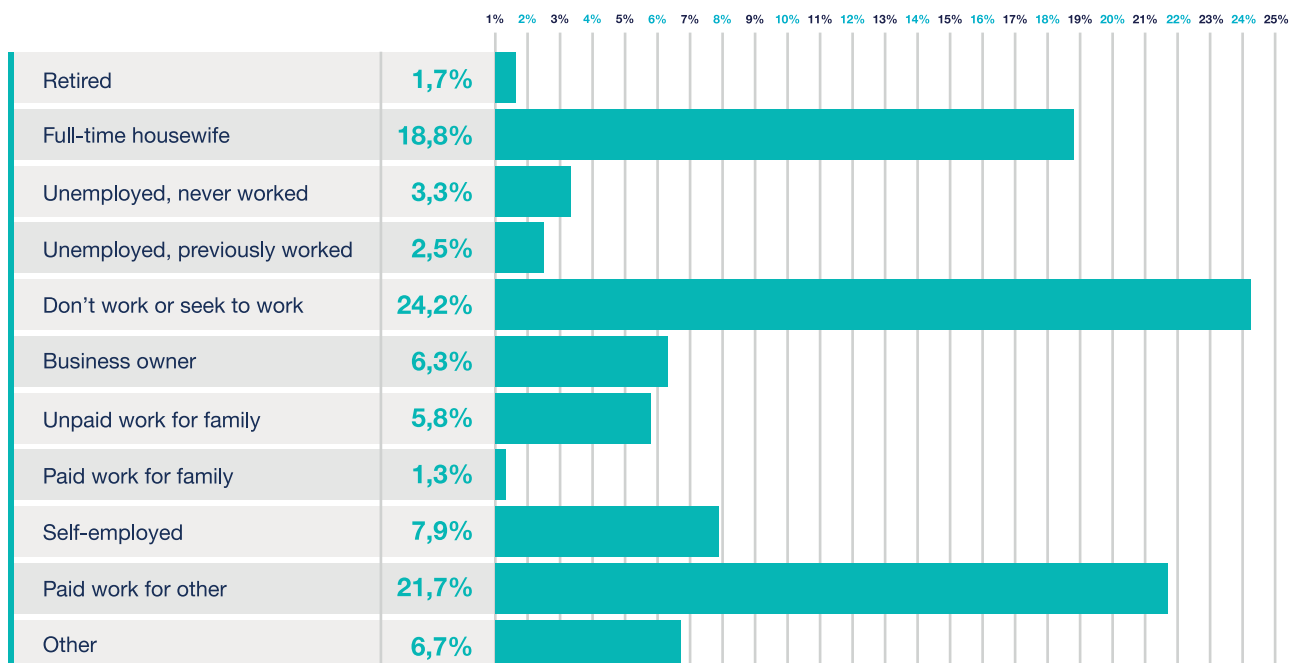


Chart No. 8 Professional status before 2011

[63] We believe this category represents unmarried girls over the age of 18, as they are not full-time housewives with their mothers present, but help their mothers with housework.

Chart No. 9 (professional status before 2011 based on place of residence) shows the high percentage of working women who want to work and are looking for work in the city, in contrast to the high percentage of women fully devoted to domestic work in the countryside, as well as the high percentage of women who perform unpaid work for the family in the countryside.

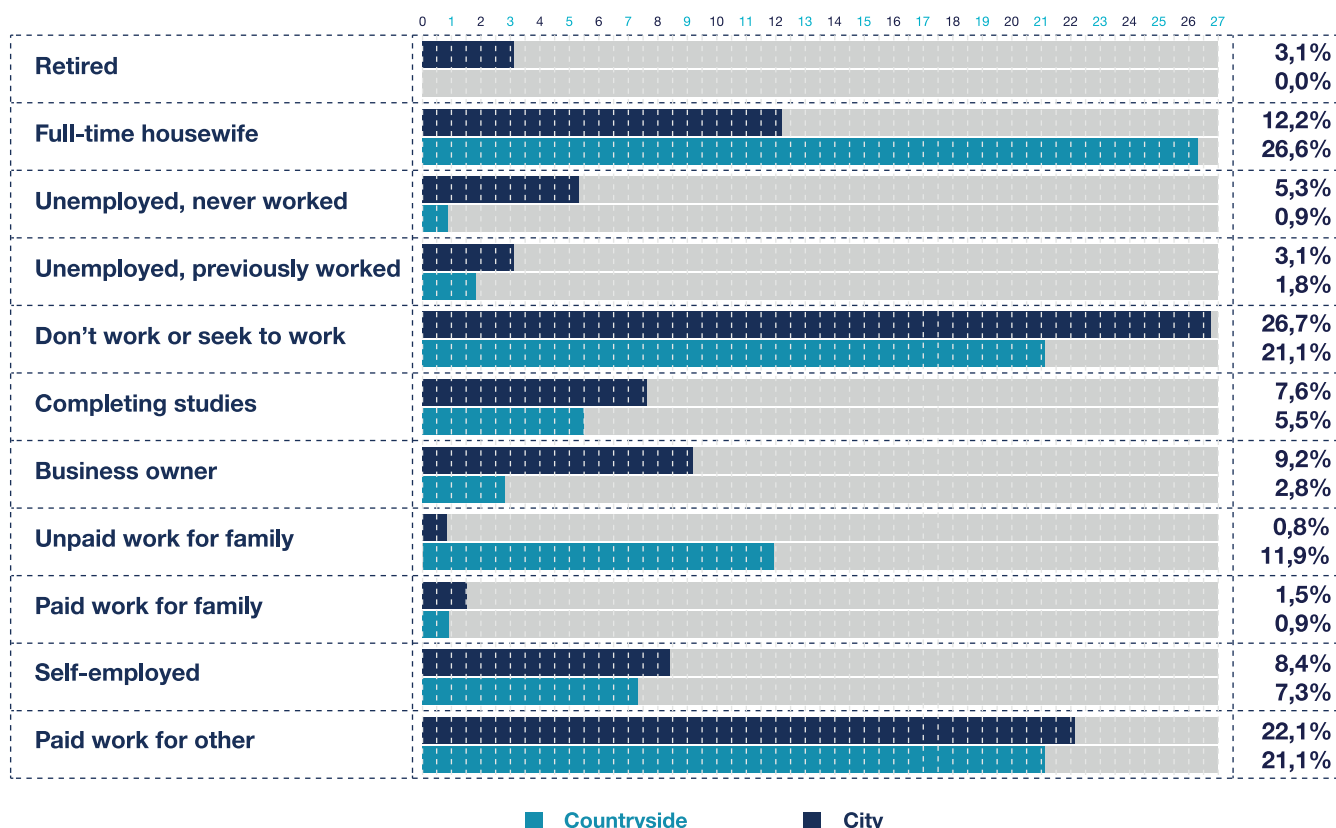


Chart No. 9 Professional status before 2011 based on place of residence

The percentage of women performing full-time domestic work, and women unwilling to work, fell to 28.4%. We believe the reason this percentage is lower than average rate before the conflict which was around 60%,^[64] and lower than participation in the workforce before 2011, is because many women are forced to work due to deteriorating living conditions and loss of breadwinner (arrest, enforced disappearance, death in combat). The percentage of those working (different forms of work) contrasts to high unemployment rates among women participating in the survey, reaching 19.1%, which reflects women’s increasing desire to obtain a job in light of prevalent economic and living conditions, including armed conflict and loss of the male breadwinner. . We believe these changes will have a direct impact on women’s attitudes towards sharing family property and inheriting rights.

[64] Syrian Women’s Association, Comparative research: Discrimination in Personal Status Laws in Syria, 2010.

It must be noted that asylum rules in certain countries can restrict the ability to work, as a Syrian refugee in Jordan answered in the questionnaire: “Prohibited from working, the Commission only allows one person in the family to work, and he is not allowed to work until three months after a family member leaves work.”

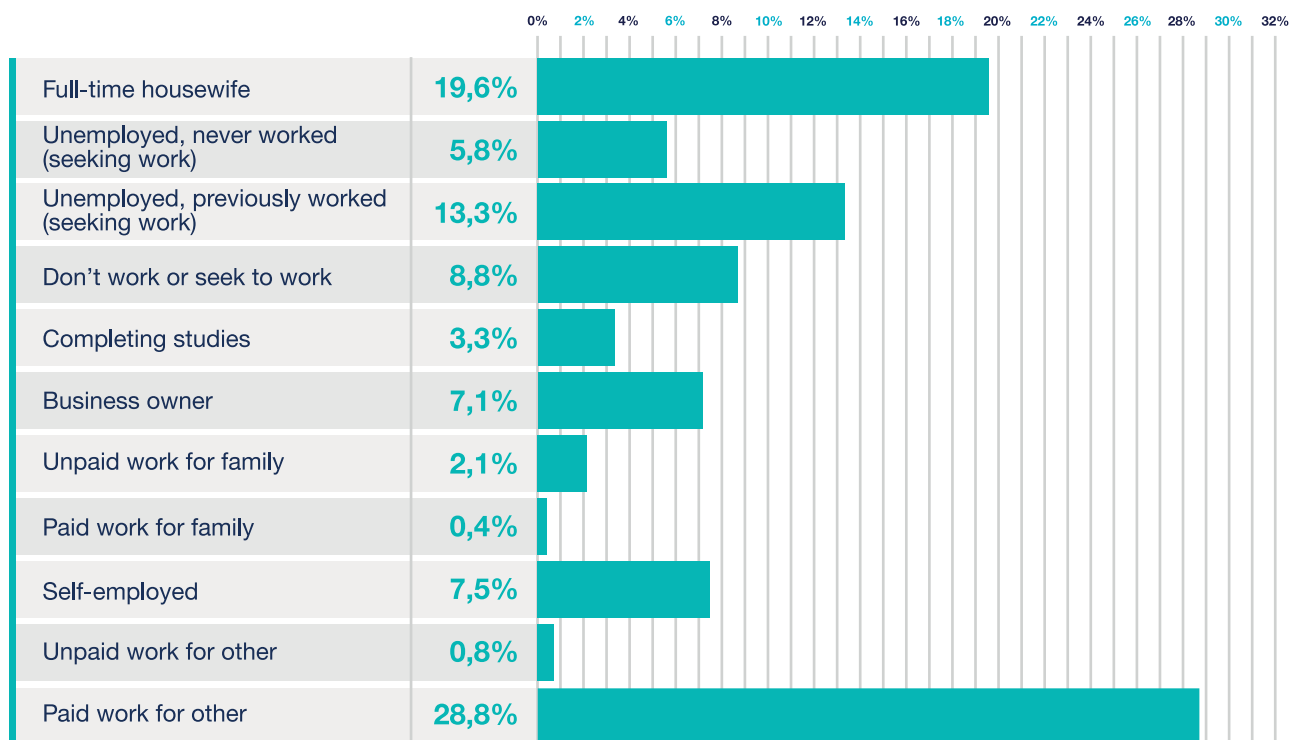


Chart No. 10 Current professional status

This link between work and current place of residence reflects the same discrepancies that appear in previous links to place of residence; the percentage of full-time domestic work and unwillingness to work in the countryside is higher compared to the city, and the percentage of unpaid female workers in the family is higher in the countryside than in the city, whereas we did not find a single one of the rural women who works for the family in return for wages. What is remarkable is the high percentage of unemployed women looking for work, whether or not they have previously worked in the countryside or the city, and we believe that this rise is due to the aforementioned economic and social conditions. We will see, as before, that changes to job status reflects on women’s attitudes towards sharing ownership of family property and inheritance rights.

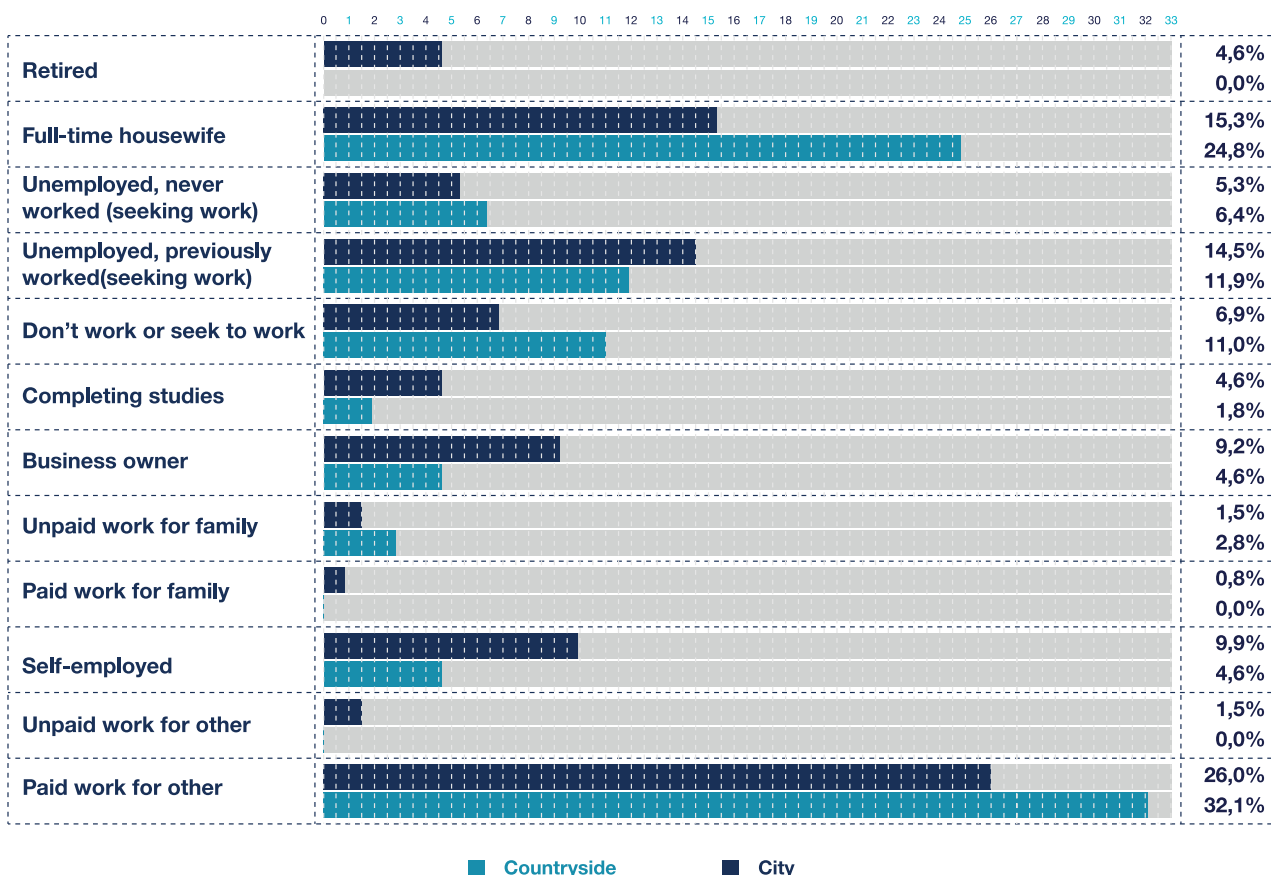


Chart No. 11 Current professional status based on place of residence

The average income for working women in the survey varies in line with reality; the lowest average income is in regime-controlled areas (\$60.48), and the highest in Europe (\$1,616). It should be noted that these results do not necessarily reflect reality, because the sample is small and not comprehensive, as well as a small number of working women have relatively high incomes, leading to an increase in the average value in a geographical area, such as areas controlled by the Syrian Democratic Forces and Lebanon. We believe this is due to the work that some of these women do in civil society organizations offer much higher salaries than the average local income, especially in Lebanon and Autonomous Administration areas.^[65]

The differences in the above data play a major role - as mentioned earlier - in women's differing attitudes of their role in the family, and how they believe they contribute directly to the development of family property. Total percentages of those who have never received wages (whether they do not work or do unpaid work for the family, or unemployed women who have never previously worked or completed their studies) is 39.6%, and converges with the percentage of women who do not believe they contribute to the development of family property. This indicates that women do not often classify their domestic work as labor that saves the family money.

[65] Notes from the data collection team.

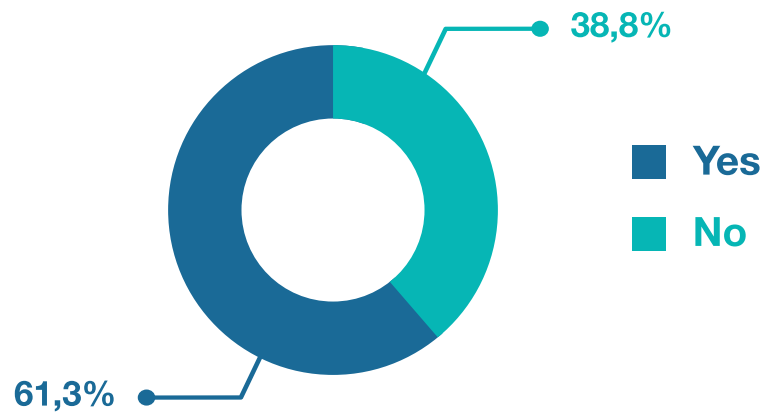


Chart No. 12 Women's opinions on their contribution to developing family estates

They became more supportive of the idea of sharing in the family property. We find a small difference (no more than 4.6%) between those who believe they do not contribute to the development of family property, and those who agree they should share in family property. Perhaps this is due to the woman's feeling that she is in her family's service and deserves to be rewarded for her work, despite the fact she is not entirely aware she is contributing to the development of family property as she does not work outside the home.

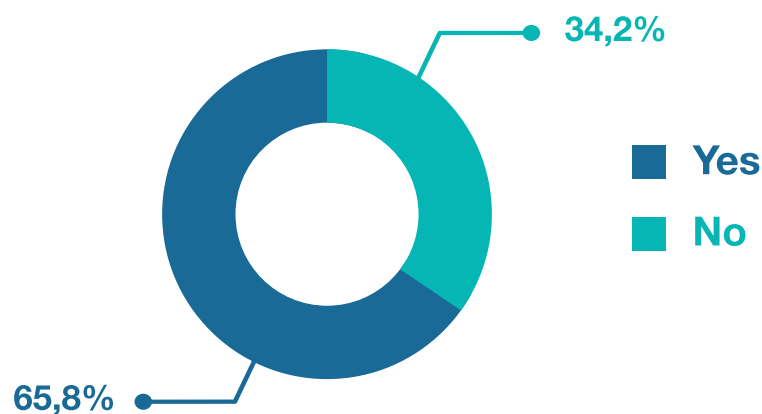


Chart No. 13 on women's attitudes towards the idea of spouses sharing family property

Support for the idea of sharing in family property was high despite different levels of education, with the exception of women who only received literacy levels of schooling; however, this cannot be explained as the sample is too small and unrepresentative.

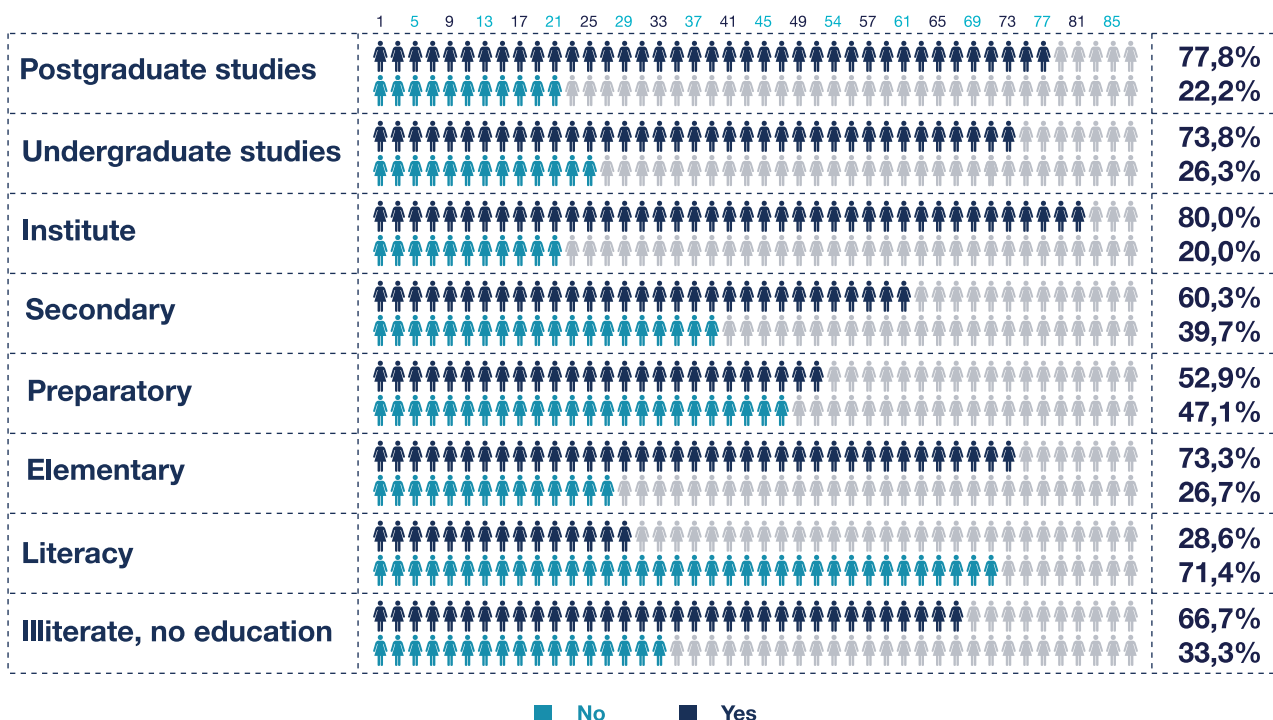


Chart No. 14 Support for idea of spouses sharing family property based on educational level

As for civil status of women participating in the questionnaire, it was as follows, noting that “other” means: “living with son’s family - engaged - married to husband who is abroad” We believe the high percentage of widows and wives of missing persons is a result of armed conflict, with numbers reaching 14.6%.

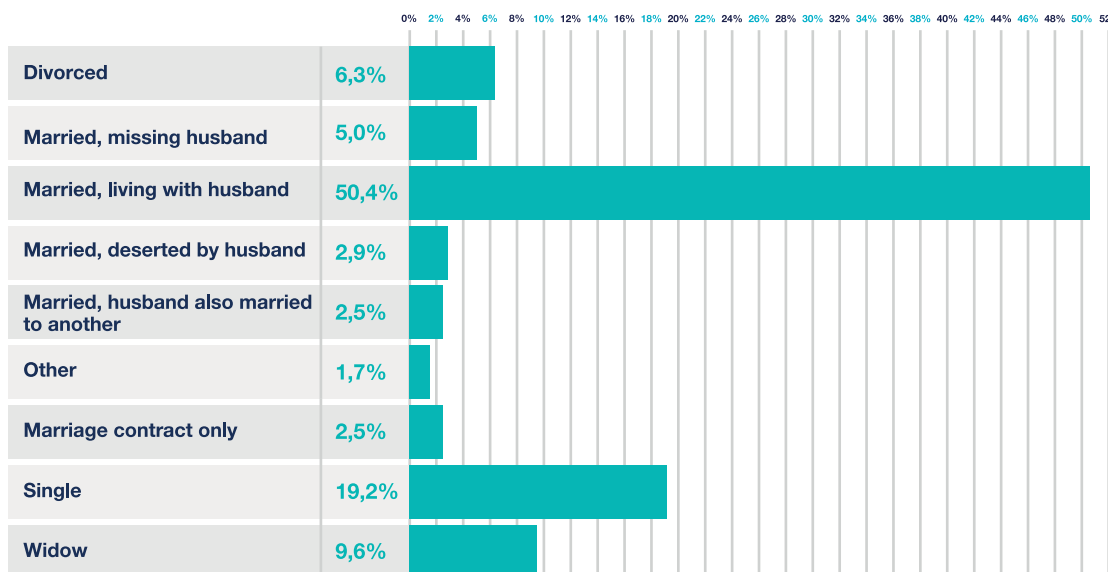


Chart No. 15 Civil status

It was not surprising to find a percentage of women whose marriage contracts were not affirmed by official courts, but this number did not exceed 11.7%.

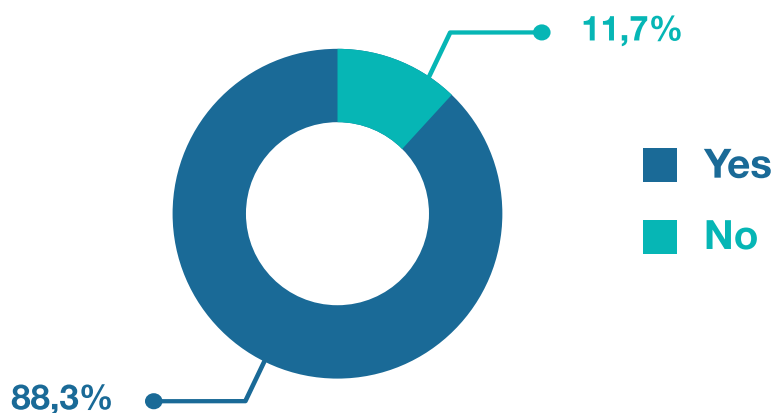


Chart No. 16 Marriage registered by official authority

It is worth noting that the highest percentage of those whose marriage was not registered by official courts was in the city, reaching 16.3%, while among rural women it was 6.7%.

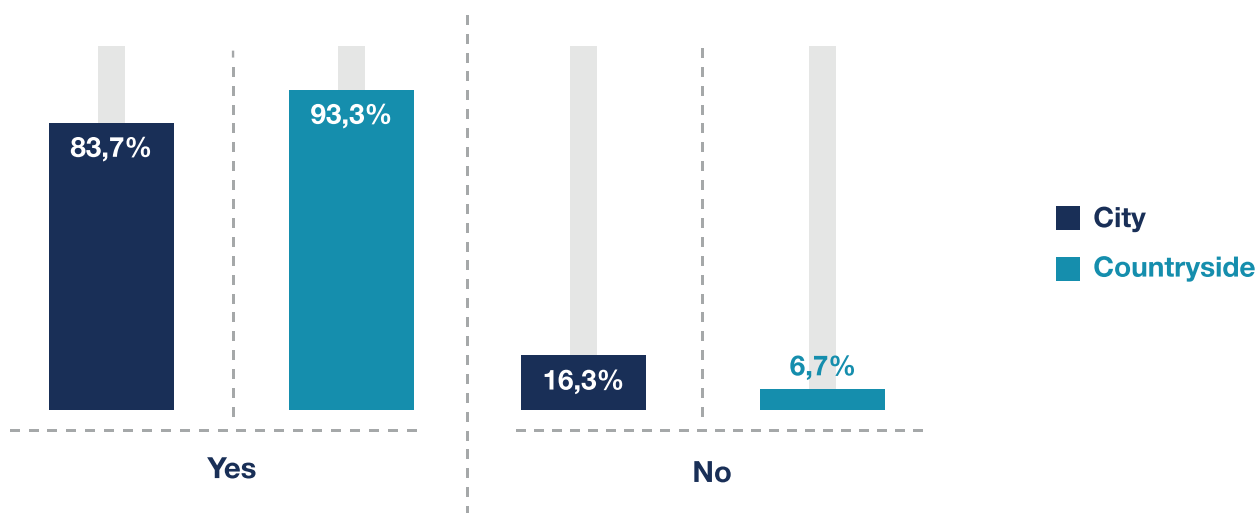


Chart No. 17 Marriage registered by official authority according to place of residence

The average number of family members of participating women is 4-6 people. This often indicates that the families are young, and reflects that the largest proportion of women participating in the questionnaire is in the age group 26-39 years.

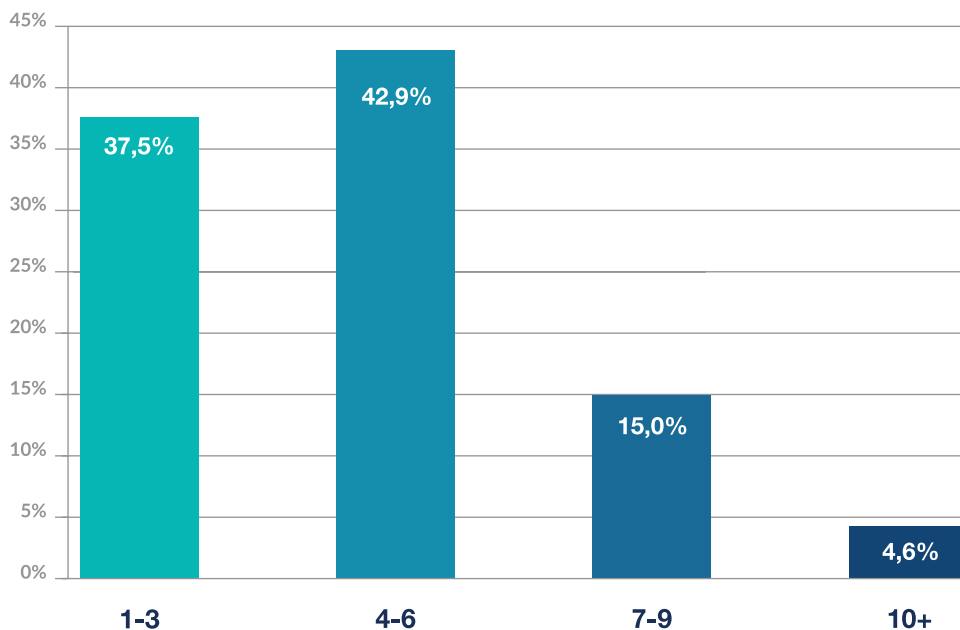


Chart No. 18 Total number of family members

The percentage of respondents' households where only one person who works is 39.6%, followed by households where two individuals work at 32.9%, and where no one works falls to 7.9%.

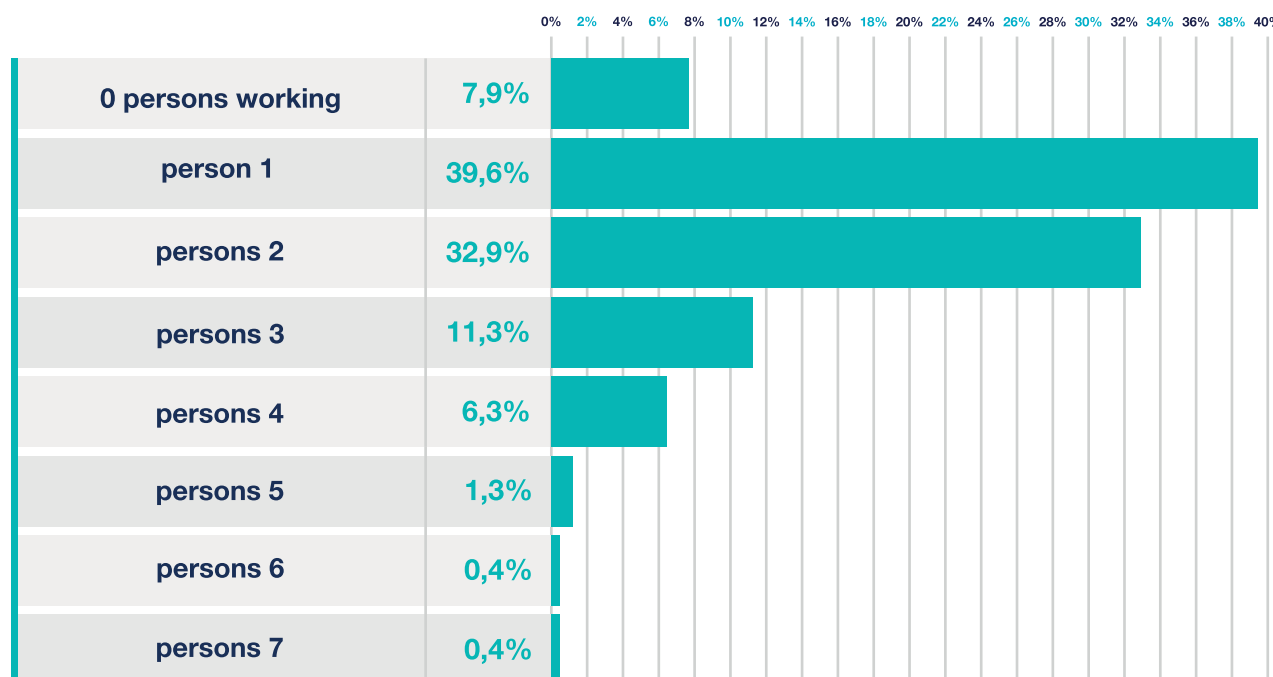


Chart No. 19 Total number of male and female workers within the same family

Data shows the number of working women has increased in all families: in the case of families where only one person works, 31 were women, and there were women working in families of participants. There is a convergence between the number of working men and working women in families consisting of 4 working members, while the number of working women exceeds the number of working men in families where 6 members work. The results of the questionnaire showed the presence of child labor, but it is concentrated among male children.^[66]

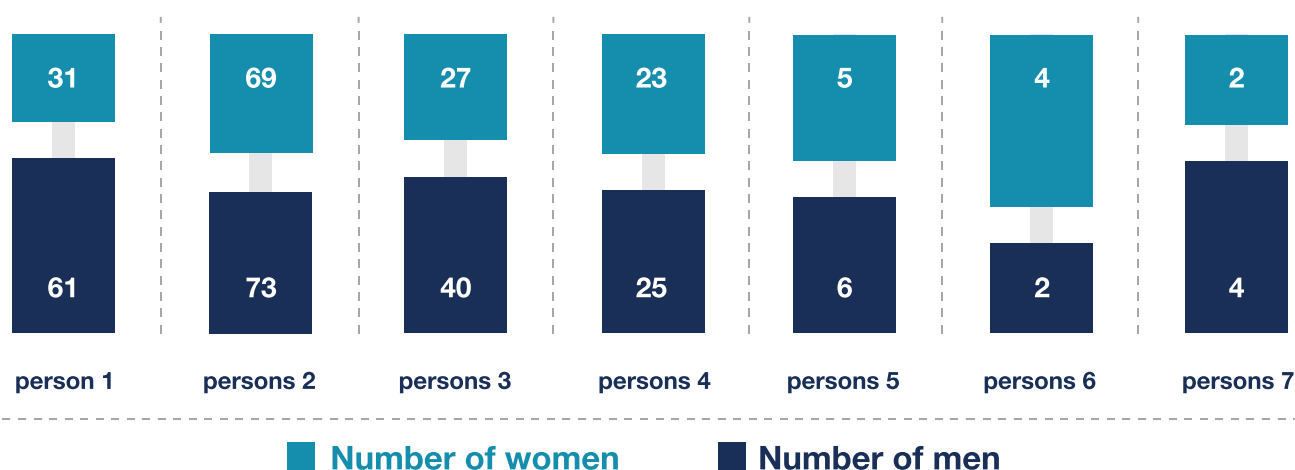


Chart No. 20 Total number of workers based on gender

In comparison to statistics prior to 2011, it was clear there had been some changes in terms of ownership, as the percentage of women owning property has increased to 30.8%, but more than two thirds of the sample (69.2%) still do not own any property.

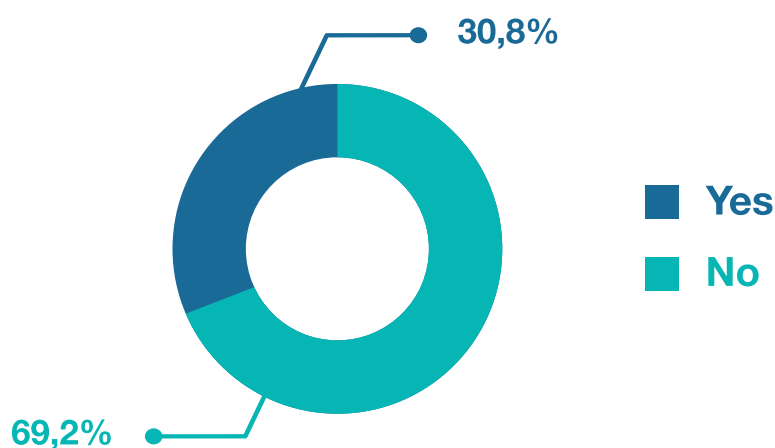


Chart No. 21 Is there a property in your name?

[66] Observations of the researcher who analyzed primary data.

The possessions took many forms: House, land, workshop or factory, shop.

A relatively large percentage of women owners of property did not have property deeds, at 31.1%.

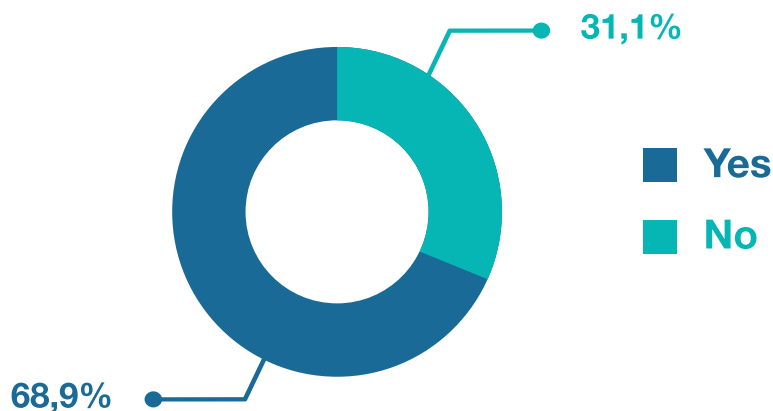


Chart No. 22 Do you have property deeds?

The reasons they do not have property deeds varied; most significantly, reasons related to the armed conflict (47.8%, left them at home, house destroyed, lost during displacement or asylum journey). “Other” includes: (property papers left with relatives, with lawyer, there is no Yazidi personal status law in Syria, property has not been transferred).



Chart No. 23 Why do you not have property deeds?

As for rents, the percentage of those who participated in the questionnaire and had access to property through rent was small and did not exceed 19.6%, while those who had a lease contract for the house did not exceed 13.8%, and this raises questions about the fate of women who do not own property and do not have a rental contract for the house in cases of marital disputes that may lead to divorce. “Other” includes: (Rental of a house or shop, but without a contract).

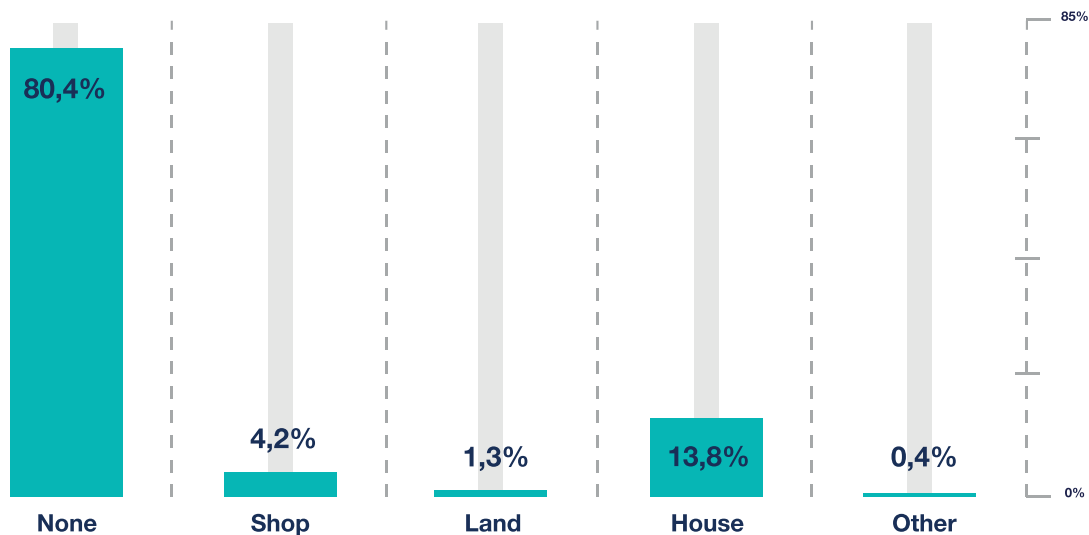


Chart No. 24 Is there a rental contract in your name?

The percentage of women participating in the questionnaire who obtained and kept their inheritance rights falls to 26.7%, while the percentage of those who inherited nothing is 57.9%, the percentage of those who inherited and gave up their inheritance share is 8.8%, and the percentage of those who gave up part of their inheritance share 6.7%. For most of the women I interviewed, replies to a question about inheritance were always accompanied with a smile, as if it was something being considered for the first time. ^[67]

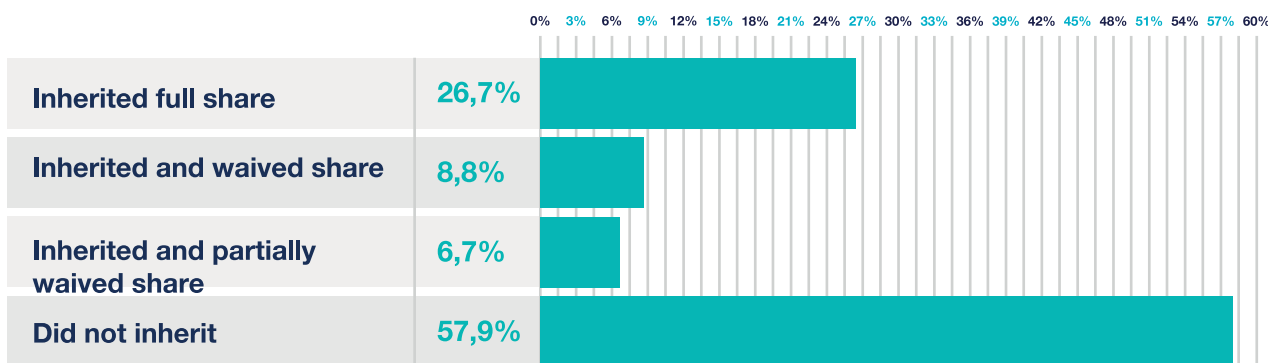


Chart No. 25 Have you inherited anything?

As for the reasons for giving up inheritance share, they are expected and common in Syria. The percentage of those who gave up inheritance - in whole or part - due to family and social pressures reached (56.7%), and the percentage of those who gave it up claiming their male brothers needed it more reached 35.1%, bringing to mind the burdens of family support resulting from personal status laws and falling on husbands, which usually encourages male inheritance. "Other" includes: (I gave up my share, I don't need it).

[67] Noted by research team.

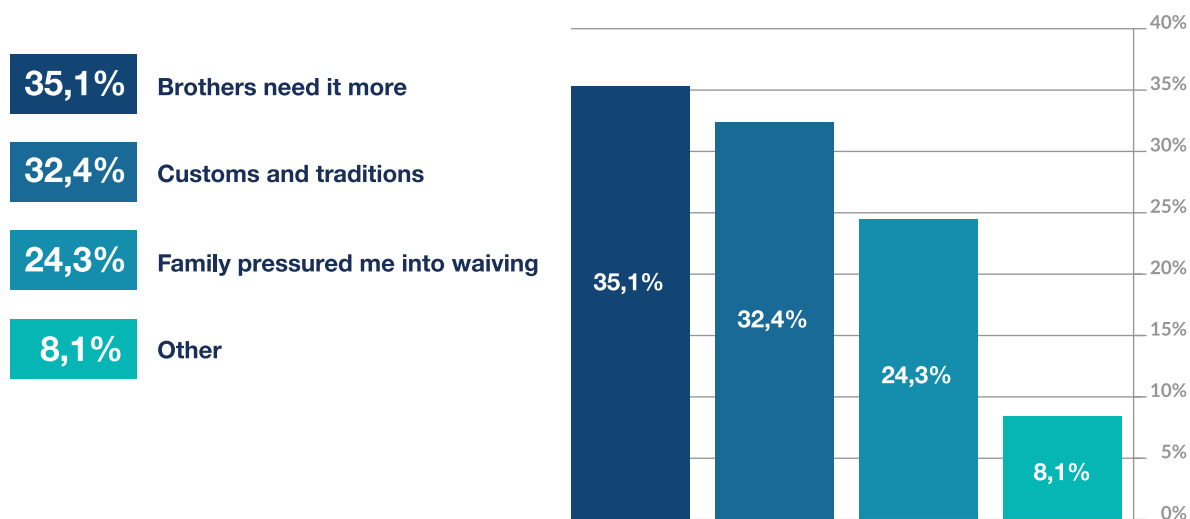


Chart 26 Why did you give up your share/part of your share of inheritance?

The majority, 18.1%, of women not receiving inheritance shares said their parents gave up or gave males the entire inheritance before death. Different responses are that inheritance has not yet been divided due to the war or family disagreements on inheritance, or parents did not bequeath daughters, or sons took possession of the inheritance leaving out the daughters, or displacement outside the country with property under regime control and inaccessible.

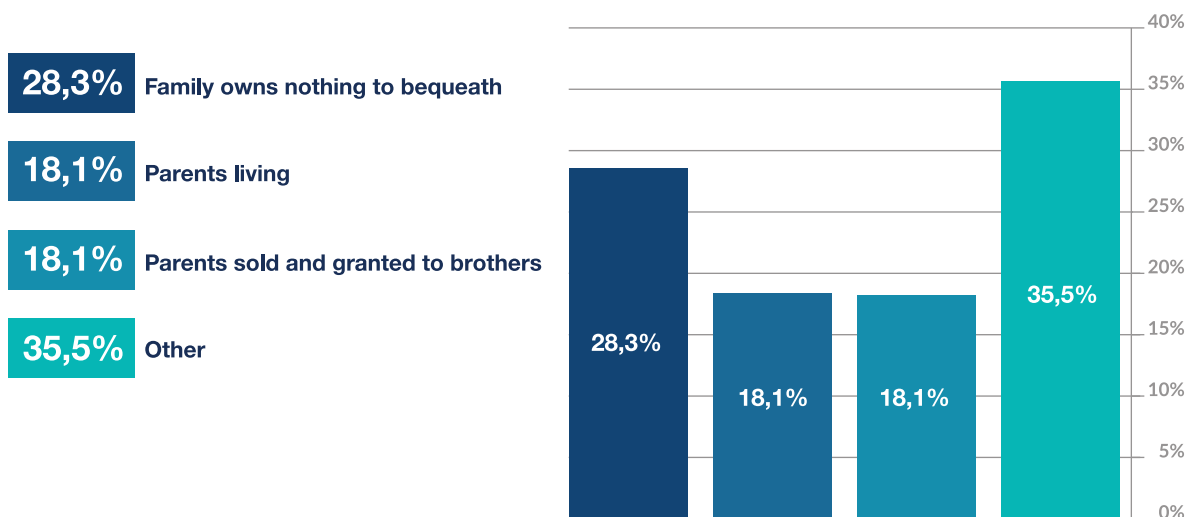


Chart No. 26 Why did you not get your inheritance share?

Remarkably, the attitudes of participants towards the idea of women receiving inheritance shares showed the approval of 97.1%. This contrasts with the percentage of women who gave up inheritance shares because their brothers needed the inheritance more than them, which is 35.1%. The percentage of 97.1% may reflect the number of women who wish to grant inheritance shares to their daughters, and not the percentage of women who defended their own rights to receive inheritance shares.

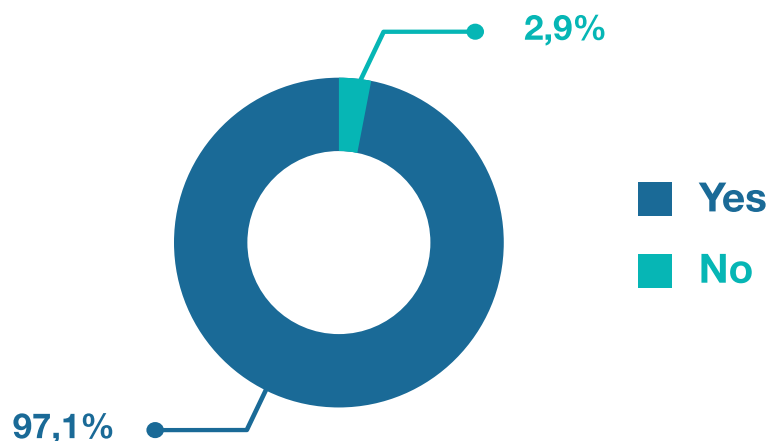


Chart No. 27 Do you support women receiving their inheritance shares?

There was an increase in the percentage of respondents who support women receiving the same inheritance share as men, 41.2%, while the percentage of those agreeing that women should receive inheritance shares based on Sharia was 58.8%.

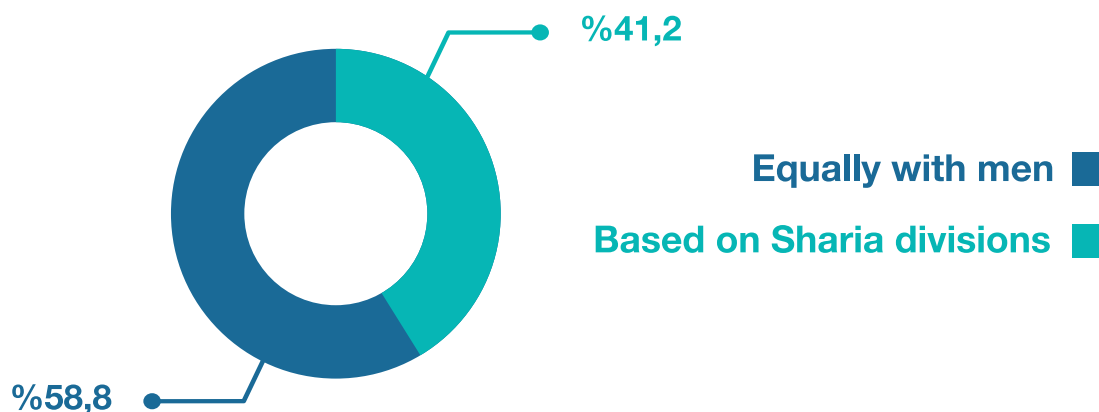


Chart No. 28 What is the inheritance share you agree women should receive?

There were no significant differences in attitudes based on different areas of residence, whether rural or urban; agreeing they should receive the same share as men were 43.3% of city dwellers, and 38.7% of rural dwellers.

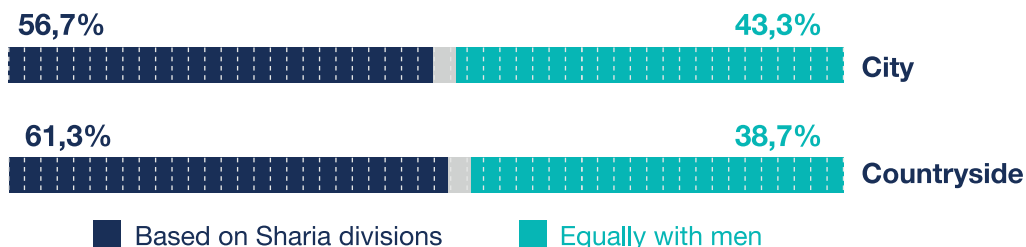


Chart No. 29 What is the inheritance share you agree women should receive?
Based on place of residence

On the other hand, percentages differed remarkably according to educational level; the percentage of women agreeing they should receive the same share as men was 45.2% of those holding a secondary school certificate, and equal among those with an intermediate institute certificate, and higher among women with a university degree, 52.6%, only to decrease dramatically among women with postgraduate degrees, 33.3%, which cannot be explained.

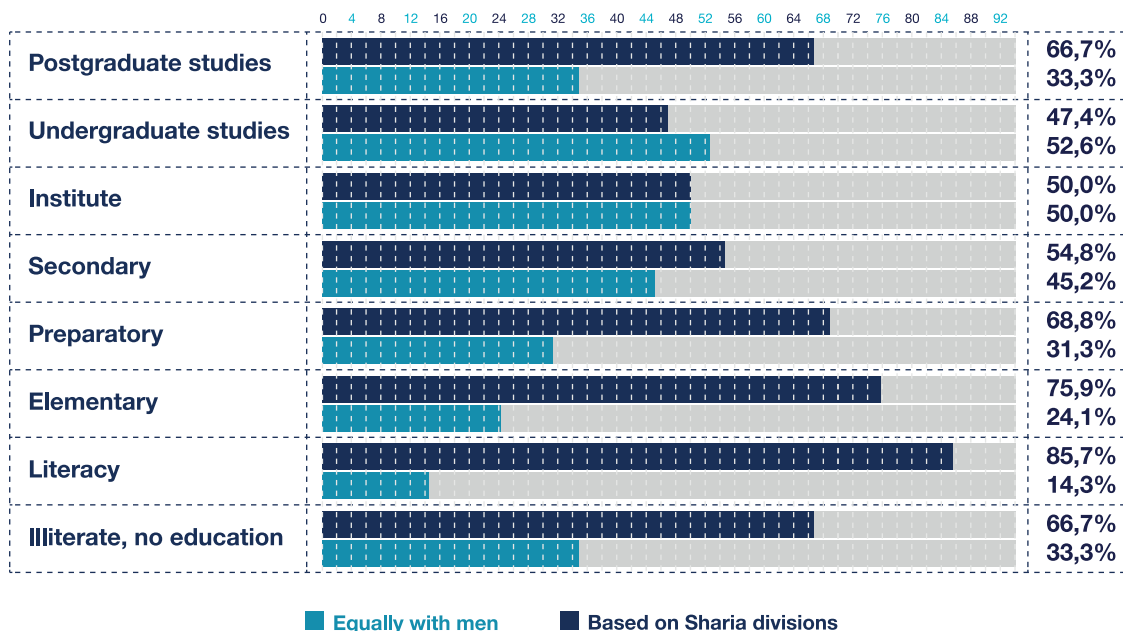


Chart No. 30 What is the inheritance share you agree women should receive?
Based on education

Although the survey results cannot be generalized due to the small sample size, distribution of this sample in different areas where Syrians live allows us to conclude: The results reflect qualitative changes in terms of an increase in the percentage of female participants who own property, reaching 30.8%, and a considerable increase in the percentage of participants who support women obtaining their inheritance shares, reaching 97.1%, as well as an increase in the percentage of participants who support women obtaining the same inheritance shares as men, 41.2%. The results of the questionnaire did not show any significant impact of place of residence on participants' attitudes towards equality between men and women in inheritance shares; it was 43.3% in the city and 38.7% in the countryside. On the other hand, a direct link was apparent between educational level and support for equality between men and women in inheritance shares: 45.2% among women with secondary education, equal among women with an intermediate education, and 52.6% among women with a university degree, before dropping significantly among women with graduate studies to reaching 33.3%, a question that needs further study.

The armed conflict strongly affected the results of the questionnaire in terms of the number of women forced to leave their original areas of residence due to bombing or political repression to go to other places; the percentage of participants who had to leave their original areas of residence reached 64.2%, and the percentage of participants who were unable to retain ownership papers due to armed conflict reached 47.8%.

Results of the questionnaire showed the great role played by customs and traditions, and the pressure exercised by parents on women to give up their inheritance rights, with both factors reported as 56.7%. Judge Anwar Majanni confirms this:^[68] “With regard to inheritance procedures, from my experience, all procedures were carried out in the same direction: with females giving up their inheritance shares to the males. Despite my attempts to create a safe environment for them, the women were convinced that this was the right thing to do. This is due to a system of customs and traditions that push females to give up their shares to males.”

On the same topic,^[69] lawyer Aref al-Shaal confirms that witnessed during his personal and professional life two things: The first is the transfer of property by the father to his male children before his death, and the second is the refusal of some women to obtain inheritance shares in Amiri lands according to the law of these lands, and they say: Amiri law is against Sharia, so we will not accept it. Sometimes the older brother controls the shares of all his brothers and sisters. There are many cases brought by women seeking to obtain their inheritance shares, either because they were deprived of their shares or because the brothers had seized their sisters' inheritance shares, claiming they are more experienced in managing property, especially when the property is shops or agricultural lands.

[68] Research interview with Judge Anwar Majanni.

[69] Research interview with lawyer Aref al-Shaal.

Al-Shaal points out that discrimination against women in terms of HLP rights is one that existed before the armed conflict, and that the property issue is problematic and complex for both men and women, as border mapping and defining processes have only been completed in a few areas, and objections are delayed until completion of these processes, as notification procedures can take up to 10 years, or with an appeal, up to 20 years.

Women's access to housing rights through rental contracts did not exceed 13.8%, and we reiterate here that this small percentage raises questions about the fate of women who do not own property nor possess rental contracts in cases of marital disputes that lead to divorce, or in case of death of the husband who owns the house, especially if the woman falls under the general personal status law by which her share is one-fourth if the deceased husband has no children and one-eighth if he has children (the more common situation). However, if the husband dies before his family (as indicated earlier), the wife does not receive any of her husband's share that he would have inherited from his family, even if she lives in the marital home.

One of the respondents suffered political as well as legal violence, telling us: "I have an inheritance share in my family's house, but me and my brothers cannot access it because the regime is in the city, and we cannot enter regime areas. I also have a house inherited from my first husband, which I cannot access because the house was registered to his family's name and not in my name or my husband's name."

Mrs. H.M.^[70] confirms she was supportive of her father registering all he owned including house and lands to her brothers, as this is the prevailing custom in the region, but she felt the injustice when her divorced sister fell ill and was left to her fate with no help from her brothers for treatment. Her children were young and not able to work, and she died from lack of health care, because she did not have the money needed for her treatment. Mrs. H.M. says: "I will distribute my possessions equally between my sons and daughters, so I will not wrong anyone."

Mrs. N.A.^[71] says: "I did not marry and remained in the family house, I served my father and mother, and also served the family of any brother who married in the family house. My father distributed all the land to my brothers, and gave the family home to one of them, and his wife became the mistress of the house, while I became a guest in my family's home. I married an older man so that I could have a house of my own. God blessed me, my husband was just, and he distributed his inheritance before his death among his sons and daughters and me equally, and he built me a house in my village. I don't know what my fate would be if I had not married this just man."

[70] Research interview with Mrs. H.M., from Safita, Tartous, falling under the Greek Orthodox Personal Status Law.

[71] Research interview with Mrs. N.A., from Safita, Tartous, falling under the Greek Orthodox Personal Status Law.

Mrs. L.A.'s experience in Suwayda^[72] summarizes a lot of the suffering from customs and traditions. Mrs. L.A. says: "What inheritance are you talking about? Even the sheikhs do not bequeath their daughters. I am divorced and have no children and now I live in a homeless shelter. Do you know what homeless shelter is?"

The experience of Mrs. N.M.,^[73] who did not receive any inheritance share but comes from a wealthy family, is slightly different; they bought a decent house for her to live in with her sister, who is also unmarried.

The issue of women's poor access to property and housing rights is more than a matter of rights violations and legal and societal discrimination - despite their importance - it is rather a vicious cycle of deprivation, discrimination, marginalization and poverty. Having no property means no collateral with which to obtain a loan, and the inability to engage in profitable productive work, inability to rise above the poverty line, inability to increase the number of women in the labor force, and the impact of this on women's participation in public life, especially the political. With no guarantee of housing rights, according to the Pinheiro principles, this will lead to the denial of access to other human rights: The right to work, health, education and participation in public life.

Attaining women's property rights advances the achievement of the Sustainable Development Goals; as securing women's HLP rights does more than afford them prosperity, it is also associated with greater well-being for their families, especially their children. Recent studies show, for example, that women are more inclined than men to invest their income in the well-being of their families, especially in areas such as child health, nutrition and education. Thus, investing in women's equal access to land and assets is a direct investment in the future, as well as a critical step towards achieving gender equality (SDG 5) and ending hunger (SDG 2). The first goal, in particular, is central to accelerating progress in the entire 2030 Agenda.^[74]

Although customs and traditions are direct reasons behind discrimination against women in securing property and housing rights, and behind women's acceptance of this discrimination, and its persistence throughout generations, the question that arises again is: Are customs and traditions the problem in themselves? All peoples have ancient customs and traditions, but their effects have been overcome in many places around the world, while ours have not. Where then does the problem lie?

We believe the problem lies in the lack of effort to educate men and women in order to transcend these customs and traditions, and to convince women that depriving them of property and housing rights is clear discrimination, and contradicts the values of justice and equality, at the same time educating women about mechanisms that give them access to property and ways to guarantee this. This brings us to the fifth chapter of this study.

[72] Interview with Ms. L.A., from Suwayda, falling under the inheritance rules of the Druze sect.

[73] Interview with Ms. N.M., from Jaramana, falling under the inheritance rules of the Druze sect.

[74] <https://bit.ly/3roiWMW>

Chapter Five

Government and civil interventions to ensure women's HLP rights nationally, regionally and globally



I: On a national scale

1 At the government level

It is difficult to track government steps that are taking place in Syria, not because they are discussed behind closed doors, but because it is difficult to track the effects of these steps on the ground in a country where decision-makers hold a monopoly over information. This was the case before the conflict. After the conflict, the Syrian government has resorted to not announcing its five-year plans, and it is almost impossible to know the effects of such plans, policies and programs. Therefore, we will resort to analyzing the 10th five-year plan,^[75] which was the only five-year plan that devoted a whole chapter to women's empowerment.

The document of the 10th five-year plan began by "setting as priorities the need to achieve qualitative development in the life of Syrian women and to include gender issues as basic variables in programs and projects implemented during the following five years." The plan acknowledges that women's "access to economic resources and life opportunities is still limited and below that reached by men;" and that the large difference in property ownership between women (5%) and men (95%) is among the differences between men and women in terms of access to social, economic and political opportunities. The document acknowledges that "customs and traditions continue to play a role in perpetuating the stereotypical image of women, and laws and legislation have not been implemented, and reforms not taken, to reduce them as required." It placed under its strategy for women's economic empowerment that "it is also necessary to amend laws related to women's property rights to increase their land holdings and ownership." It also mentioned within its strategy for women's social and political empowerment "the subject of education on human rights and women's rights must be included at the core of school education curricula." Of local development programs and women's participation, it states "the extent to which women have access to material assets compared to men will be reviewed." Despite all this ambition in the plan, "performance follow-up indicators" are devoid of any indicator showing women's property ownership has increased. More than 16 years after this lofty plan, no changes have been made to the laws in force that affect, directly or indirectly, women's opportunities to access more property and housing rights.

We believe that decisive action capable of changing reality should be on the part of the government and come from the determined political will to bring about change. This is not present in the Syrian regime's structure, especially since it relies heavily on its alliance with fundamentalist religious forces which participate in all the committees set up by the government to consider amending laws related to women's rights, and to propose policies and programs for the advancement of women's conditions.

Additionally, the Syrian government continues to restrict civil work, and requires security

[75] State Planning Commission, 10th Five-Year Plan Document, Women's Empowerment chapter, 2005.

approvals to form civil associations, and prohibits the formation of women's associations.^[76] It has recently granted the Syrian Trust for Development a near-monopoly on awareness-raising work and legal guidance.

The government's media work still falls short of fulfilling its required role to spread awareness on women's property and housing rights, especially since it is absolutely dependent on government policies.

2 At the non-governmental level

Previously, we referred to the complexities of civil work in Syria, which caused many civil associations, especially women's associations, to not be licensed. Despite these actions, a significant number of women's organizations, associations and groups are still operating, but their work is limited due to these restrictions. The work of these organizations, associations and groups often focuses on reproductive health and women's rights in general. As part of the work to raise awareness on women's rights and shed light on discriminatory laws, the Syrian Women's League prepared and published a paper on discrimination in personal status laws,^[77] in which it exposed the reality of Syrian women's property ownership and the impact of legal discrimination, customs and traditions on women's low ownership rates, and the impact of low ownership rates on women's economic empowerment. However, there is no feminist organization operating in regime areas that addresses property and housing rights after the conflict.

II: At the regional and global level

Jordanian women suffer from the same challenges that Syrian women face in receiving their inheritance shares. The legal system in Jordan is similar to that in Syria, and customs and traditions in both countries are similar, with differing degrees of clan dominance.

Women's associations in Jordan pressured the Jordanian government until the 2011 instructions for organizing and recording inheritance transactions were approved, of which Article (1) prohibits the registration of any public or private waiver until three months have passed since the death of the deceased, in order to ensure that an heir's decision is not affected by their emotional state following the death of the relative. However, instructions also stipulated that - despite what is stated in paragraph (a) of this Article - "it is permissible, with the approval of the judge, to register a public or private waiver before the expiration

[76] Administrative Instructions to Prohibit the Formation of Women's Associations, No. (9/D/62), dated 08/08/1974, executive offices must abide by the following when deciding on a request to declare the association's bylaws: 1. Reject any request to declare associations and clubs with similar objectives to those of popular organizations, 2. Not to declare any women's associations in accordance with Legislative Decree No. 121/ of 1970.

[77] Syrian Women's Association, Discrimination under Personal Status Laws in Syria: A Comparative Research, 2009-2010.

of the period referred to in the previous paragraph, if there is a legitimate or legal justification.”

In an interview with the Chief Justice in Jordan,^[78] he said: “The court prohibits the registration of any waiver from female heirs to male heirs if the purpose is to waive inherited property without real compensation, or if the agreed compensation is symbolic. It does not give final approvals of this type for any waiver at all, regardless of the date of the deceased’s passing.” The Chief Justice emphasized that^[79] “the department only granted 20 approvals during 2017 and 2018, due to special circumstances proven by the heirs, ... It was also prohibited to register representatives for private or public waivers during the first three months of death ... In terms of numbers, we can confirm that 78% of inherited property registered in the Kingdom have no waivers registered in courts, according to 2018 figures ... The total amounts of cash bequests that courts dealt with during the past 10 years amounted to more than 1.25 billion dinars, all of which were distributed through court among male and female heirs, each according to his share under Sharia.” The judge pointed out that “a waiver is not permitted in the form of a mere waiver if it is a female in favor of males; procedures require an assessment of the value of the inherited properties by experts and a statement of the share of each heir to prevent deception among them ... Additional measures taken by judges are to check conditions and procedures are fully met.” He also stressed that Jordanian law stipulates that “dismissal by mutual consent is permissible,” meaning that waiving parties agree to cancel a contract of waiver if they mutually consent to do so for any reason they see fit, and courts have recorded many dismissal arguments... while the waiver does not apply to inherited money. The court must make sure both parties understand the consequences before registering the waiver.

On November 16, 2020, amended instructions were issued in the Official Gazette for organizing and recording waivers for 2020, to add to instructions of 2011. The media spokesman for the Chief Justice Department said, “The amendment increased the period required from death to waiver, from three months to four months.”^[80]

The result of these procedures was that “waivers registered with courts in Jordan decreased significantly during 2020” ... Inheritance and waiver procedures for the year 2020 amounted to 24,960 including 4,351 waivers, or 17.4%. In comparison, 28,553 procedures were carried out in 2019 including 7,194 waivers, according to the annual statistical report for 2020 issued by the Department of the Chief Justice. Number of inheritance and waiver procedures during 2016-2020 reached 125,399, including 26,032 waivers, or 20.7%.^[81]

However, feminism in Jordan is still calling for the improvement of these procedures; Tadamon Institute^[82] reports that “these texts do not do much in achieving the desired result, which is to prevent women from being forced to give up their inheritance shares.”

[78] In Arabic: https://petra.gov.jo/Include/InnerPage.jsp?ID=583&lang=ar&name=invest_news

[79] Chief Justice Department.

[80] In Arabic: <https://petra.gov.jo/Include/InnerPage.jsp?ID=159159&lang=ar&name=news>

[81] <https://bit.ly/33eGJoT>

[82] In Arabic <https://bit.ly/3ozkXo6>

It proposes amendments to these instructions, “including raising the period to six months, and restricting the possibility of exceptional waivers before this period expires.” It added: “Mandatory provision of an inventory of the inheritance attached to the waiver; ensuring that specifications of the waived assets and their actual value are known to all parties, acknowledged in writing; preventing other forms of disposal of inherited assets before this period has passed, and strict criminal prosecution for false declarations of receiving the price or value of shares; criminalizing methods of pressure and coercion in order to obtain a waiver, and invalidating those that occur under duress within a period of no less than one year, and ruling for compensation of such within normal limitation periods.”

The International Fund for Agricultural Development^[83] has worked to support women’s property rights, in various forms, “from helping women obtain a basic government-issued identity to actually increasing their land tenure. We also work at the family and community levels to transform gender norms regarding women’s land use and control through approaches such as Family Methodologies.” “In Bangladesh, for example, the Trust-supported Char Development and Settlement Project -worked closely with authorities to register land deeds in the names of both spouses with equal ownership shares, and with the woman’s name listed first. This guarantees her full ownership of the land in the event she is widowed, divorced, or abandoned by her husband.” “Recently, we have seen real progress in rural women’s security of tenure through the use of family-based methodologies. The practice of involving all family members – women and men – in envisioning a joint future results in consistent positive changes in women’s livelihoods and well-being.”

The world bank also supports,^[84] land registry projects in 48 countries with commitments exceeding \$1 billion. The World Bank has established one of the largest land administration portfolios in Europe and Central Asia, which since the fall of communism has witnessed the largest reform of land tenure system in its history. The Agricultural Land Registration Project in Tajikistan is an example of the Bank’s work in the region, where about a quarter of the land deeds issued went to women, with nearly 23,000 female farmers obtaining land deeds. In Ethiopia, the government’s extensive efforts to document land ownership to cover 6.3 million families have improved women’s economic and social conditions. Now the wife has the right to obtain half of the husband’s property. In Indonesia, post-tsunami recovery efforts in Aceh included a community survey and the issuance of more than 222,000 land deeds, of which about a third were acquired by women. In Vietnam, 60% of five million land deeds were registered in the name of both husband and wife. In the aftermath of Cyclone Phelan in 2013, the government of Odisha state in India provided land and financial support to build concrete homes for the poor in 12 cyclone-prone villages. Land was allocated either to both the husband and the wife, or to the woman alone if she unmarried.

[83] <https://bit.ly/3uqllTO>

[84] [Promoting Land Rights to Empower Rural Women and End Poverty \(worldbank.org\)](https://www.worldbank.org/)

Challenges and Recommendations

1- Most prominent challenges to increasing women's property ownership and access to housing rights in Syria

There are many challenges that obstruct increasing women's access to property ownership and housing rights in Syria at the present time, especially in light of the ongoing armed conflict. These challenges include a wide range of political, legal and social factors. The most prominent of these challenges are:

- The absence of political will among decision-makers in Syria - the regime and de facto forces - to make a qualitative breakthrough on this issue, as regional and international experiences have shown that a qualitative change can be made when this will is present.
- Customs and traditions linked to a patriarchal religious system has often deprived women of their rights.
- The constitution's lack of an article guaranteeing the right to housing, and the absence of legal articles guaranteeing the rights of tenants in cases of disasters or conflict.
- Discrimination against women in a number of key Syrian laws.
- Weak efforts to change customs and traditions that perpetuate a patriarchal ideological system depriving women of their legally guaranteed shares, and lack of media policies that should focus on changing these habits.
- An environment that is not supportive of civil work in Syria, and security restrictions by the decision-makers, the regime and de-facto forces, against associations and organizations that do not agree with them.
- Civil associations and organizations working on these issues do not adopt a gender approach.
- Women's ignorance of their rights due to the lack of official work to educate women, and policies that restrict the work of civil society.
- Restricting women's rights that affect their property rights, such as the right to education, work and movement.
- Educational curricula fail to include principles of human rights and women's rights, which would ensure generations are brought up to respect and adopt these values.

- Armed conflict, which presents special challenges in addition to the above complexities:
 - ❖ Policies of forced displacement in most of the Syrian lands, with property owners absent from their properties and unable to return, under current dominant forces.
 - ❖ Prosecutions and security measures carried out by the decision-makers, the regime and de-facto forces.
 - ❖ Enforced disappearance of property owners and difficulties of proving owner is deceased.
 - ❖ Loss of papers and documents proving ownership, or loss of identity papers and proof of kinship.
 - ❖ New urban planning laws issued by the regime, and difficulties in authorizing representatives as these procedures require security approvals.
 - ❖ Huge number of HLP rights issues.
 - ❖ Failure to raise this vital issue within the political process.

2- Recommendations^[85]

There are numerous proposals to meet challenges and find legal and programmatic alternatives to advance women's conditions in general, and to guarantee their HLP rights in particular. We believe this issue cannot be solved with unilateral initiatives, but requires approaches that address all the aspects that marginalize and impoverish women and limit their participation in public life.

Proposals also include those concerning the general situation in the country, before and after the conflict, especially as the Syrian regime's policies of marginalization and exclusion, now also followed by various de-facto forces, have led to great social deficiencies.

A At the political level:

- Including HLP rights issues in peace talks as an issue that concerns most Syrians and one of the factors to ensure the dignified return of refugees, and as one of the most important peace-making and building steps, and to include the integration of gender into this file.

[85] Workshop held by TDA on 04/06/2021 to discuss the subject of the research, Judge Anwar Majanni contributed to the proposals through the research interview conducted with him.

- Reaching a political agreement that ends the armed conflict and establishes a democratic Syrian state neutral towards all its different groups and ideologies.
- Adoption of a decentralized system in the new Syria, whereby local units - at all levels - carry out procedures that empower women and improve their conditions, including ensuring the equal distribution of land among family members: wives and husbands, as well as single women.
- Allowing civil organizations to be established and work freely while ensuring subsequent monitoring, to ensure that civil society plays the role expected of it.
- Guarantee a quota in representative and executive positions, of not less than 30% for both sexes.

B At the legal level:

- The constitution guarantees the right to housing, and guarantees equality.
 - Amending laws that discriminate against women.
- The abolition of all exceptional courts in Syria, and the abolition of all their previous rulings.
- Cancel all security procedures required to authorize legal representatives.
 - Civil Code must provide to guarantee the rights of male and female tenants in the event of disasters and armed conflicts.
 - A law that guarantees that money earned during marriage is joint property.
 - Amending current personal status laws in order for the marital home to become the guardianship home, so that the wife cannot be removed from the marital home after divorce if she is the custodian of her children.
 - The wife has a statutory right to benefit from the marital home after the death of the husband, and vice versa.
 - Prohibiting waivers of property ownership by women until a period of time after the death of the deceased (for example, a year). After that, the waiver must be real, and if waived for money, the amount must be equivalent to the real value of the property, with proof of depositing the money in a bank account.

C At the social level:

- Strengthening the role of alternative media that cooperates with women's and human rights organizations and associations.
- Amending educational curricula to encompass the values of human rights and women's rights at their core.
- Gender dimension must be present in the HLP rights file for all organizations, associations and research centers that work on this file.

D In terms of ensuring justice for all:

- Provide equal compensation for women and men for property and housing losses.
 - Involve women in discussing and approving justice for all programmes.
 - Launching the transitional justice process and ensuring women's participation.
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