

# Not Our Choice But We Are Bound by Hope

Burdens of the legal and social system on women affected by  
enforced disappearance in Syria

## Analytical report

The report is based on interviews with fifty women affected by the enforced disappearance of one of their male family members in Syria.

First Edition - 2024



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An analytical report was conducted by the Caesar Families Association in collaboration with “Baytna”, after conducting 50 interviews with women affected by the enforced disappearance of a male family member in Syria.



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### **Our lot is to Hope!**

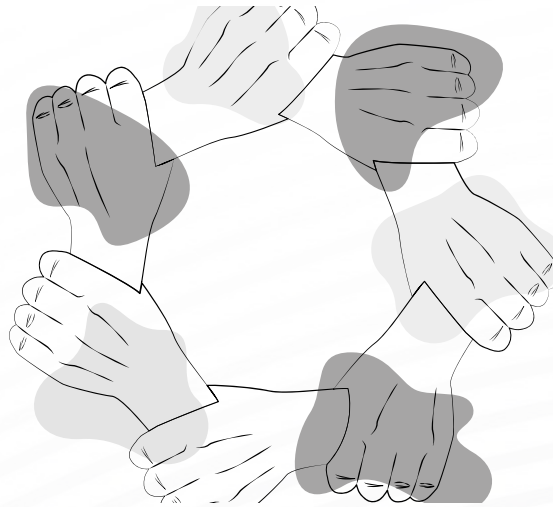
Our ears straining to catch the footsteps of the absent yet ever-present. It is a slow-burning death, and a story we live under the shadow of absence, confronting fate's cruelest challenges with courage and pain.

We break the silence, rising to claim our rights, seeking solace in healing the wounds of loss and its lingering echoes.

We have transformed ourselves from mere executors of stereotypical roles into leaders, guiding our families through the storm, championing our cause, wielding the power of law, media and documentation, and unwavering support for fellow families.

Our voices echo with a clarion call, demanding the release of our loved ones, the revelation of their fates, and the recovery of the remains of the deceased.

We stand like unyielding rocks, pillars of strength everyone leaned on, our warm embrace concealing a universe of pain behind its unwavering smiles.



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## Executive Summary

This report presents an analysis of interviews with fifty women affected by the enforced disappearance of a male family member in Syria. The report aims to conduct a comparative analysis between the real experience of these women<sup>1</sup> as the key stakeholders, and the impact of the existing legal and social frameworks and systems in Syria. Women's experiences demonstrate the failure of the legal systems in Syria to respect, protect and fulfill women's rights. Moreover, these systems are complicit in further depriving the women of their rights, especially through the perpetuation of structural discrimination and violence at the societal level. Women's experiences demonstrated the absence of a rights-based approach in dealing with enforced disappearance and its impact on them. Instead, the response to this impact has been limited to either placing the burden on women or providing temporary and often conditional responses.

Based on this comparative analysis, the report concludes with a set of findings. Caesar Families Association aims by presenting these findings to raise awareness of the issue of enforced disappearance through a victim- and rights-centered approach. The aim is also to direct all relevant actors towards a serious engagement with this issue based on this approach, whether in terms of immediate response, addressing root causes, or potential paths to justice and transitional justice. The main findings can be summarized as follows:

1. The failure of Syrian law to protect against enforced disappearance and its effects on the family in general and women in particular is not limited to Syria's non-accession to the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED), but rather is evident in the laws and measures in force that - in addition to encouraging the commission of enforced disappearance - exacerbate discrimination against women and direct and indirect violence against them by depriving them of many of their rights as a result of the enforced disappearance of the male breadwinner in their family.
2. The right of families to know has no real value in Syrian law and procedures. The burden of enjoying this right is particularly placed on women. This is not only because of the legal texts themselves, but also because they either are based on or support patriarchal social systems.
3. Women's experiences are practical evidence that the Syrian authorities' implementation of their obligations in accordance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is limited to some legislation and bodies. By comparing these experiences with the interpretations of the provisions of this Convention, it becomes clear how the State has failed to fulfill the purposes and objectives of the Convention, foremost among which is to address structural social discrimination.
4. "Death Certificate" poses a challenge that entails several burdens imposed on women affected by enforced disappearance. First, women are enforced to make the decision to issue it due to the existing legal and social systems and frameworks. Second, despite being deprived of the free will to issue the certificate, they fall victim to many episodes of difficulties in issuing it for legal, procedural, and social reasons, as well as additional challenges resulting from forced displacement.
5. For many women, the "Caesar" photos represent a form of incomplete truth that entails unfair

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1 This report uses the term "women" to refer specifically to the women interviewed who were affected by enforced disappearance.

human burdens on the one hand, and ambiguous legal considerations on the other. The fact that women are forced to use these photos to obtain the right to legal personality and access to their other rights is in itself a continuation of the anguish and grief resulting from enforced disappearance and the lack of knowledge of the fate and whereabouts of the victim. The “Caesar” photos shall not be considered a disclosure of the truth, nor shall the coercion of women to acknowledge the fate of the victims be considered informed consent on their part to obtain them.

6. Lack of rights-based support interventions from all stakeholders, whether official, humanitarian, or legal, is a general phenomenon. Support is limited to temporary and localized relief, which is considered a challenge for women due to the policies and administrative and procedural requirements, which in turn are added to the burdens of the rest of the procedures required by other life and livelihood matters for women affected by enforced disappearance.
7. Certain documentation practices that do not meet professional and ethical standards have had a negative impact on women in terms of efforts to search for the victim, manage expectations, prevent trauma, and respond to needs, which contributed to the absence of their central role and treating them as a source of information only. These practices and their results made many women lose their trust in the human rights effort and diminished their hope and willingness to participate effectively in it, which will require greater effort later to involve them effectively as a basis for working on their issues.
8. The range of rights affected by enforced disappearance in women’s experiences expands to be long-lasting and devastating, not only for them, but also for their family members, especially children. Existing legal and social systems combine to have a significant impact not only on the spectrum of civil and political rights, but also on economic, social and cultural rights. The effects on the rights to education, an adequate standard of living, health, special protection for mothers, work, social security, and the protection and well-being of children are some of those rights whose violations have consequences for generations to come.
9. The lack of knowledge is evident as a common element in the experiences of all women, whether with regard to immediate measures following a disappearance, or in dealing with it in the short and long term, as well as at the level of their rights that must be fulfilled. This reality has not changed for women in comparison to the length of time following disappearance or relocation and the changing environment in which they interacted. Women have not had actual experiences indicating the existence of real efforts to provide them with informed knowledge about these issues from various official and unofficial entities.
10. Women affected by enforced disappearance are forced to deal with the struggle for survival and identity due to the existing legal and social system that imposes irrational contradictions on them, such as forcing them to bear the economic burdens resulting from disappearance, while at the same time forcing them to submit to social patterns based on gender discrimination and patriarchal power hierarchies.
11. The experiences of some women have highlighted a category of victims and families that are typically - at least in the available literature - ignored and not studied: victims of enforced disappearance who are official employees within the Syrian security and military apparatus. Women affected by the



disappearance of this category were subjected to additional types of legal, procedural, and social burdens, and found themselves in a cycle of stigmatization and accusation both officially and socially, with the resulting costs in terms of their rights.

12. The establishment of the Independent Institution for Missing Persons in Syria (IIMP) is a practical model of what victims and their families, especially women, can achieve when they are able to exercise their natural role at the center of human rights issues. This is an opportunity to place women affected by enforced disappearance, especially inside Syria, in their assumed position within the context of the structural component of victims and families in the IIMP. The IIMP, through its mandate to support victims' families, also constitutes an appropriate entry point to activate a rights-based approach to responding to the effects of enforced disappearance.
13. The experience of the Victims and Families Associations in leading work on the file of detainees and forcibly disappeared persons has demonstrated clear success. This success can be built upon in pioneering interaction and outreach to victim and family communities on a broader scale, and on playing a pivotal role in verification and research processes and sparing them from practices of extortion, exploitation, and mismanagement of expectations. The move towards forming new associations or achieving greater access to existing associations is one of the pillars of a victim-centered approach that ensures broader and more inclusive representation and enables them to lead participation in the paths of truth and justice.



## Introduction

"I had nothing left! We were a middle-class family and now we are (below zero). I didn't even think about a loaf of bread because he was responsible for everything, and suddenly the situation changed, and I became responsible for securing thousands of dollars to no avail to pay off debts and meet the demands of exploiters and (fraudsters) ".

With these words, one woman summarized the common effects of the experience of the women participating in this report. She also summarized the consequences of enforced disappearance on women for reasons related to the existing or absent legal and social frameworks and systems in Syria.

In its latest report, the Independent International Commission of Inquiry on the Syrian Arab Republic (COI) concluded that the Syrian government "continued to commit [...] incommunicado detention and enforced disappearances, confirming continuing patterns of crimes against humanity and war crimes".<sup>2</sup>

The COI had previously concluded in its report on the situation of detention and enforced disappearance in Syria that the Syrian government and other parties "are intentionally prolonging the suffering of thousands of families of those forcibly disappeared by withholding information about their fate. Given the extent of enforced disappearance in the Syrian Arab Republic, the issues of detainees represent a national trauma that will affect Syrian society for decades to come".<sup>3</sup>

Based on these conclusions, it seems unlikely that the reality expressed by the woman and shared by all women will end soon, especially given the inevitability of the continuation of the effects of this reality under a legal framework and social system that victimize women time and time again. Although it is established in international law that the State bears the primary responsibility for respecting, protecting, and fulfilling human rights, the experience of women has shown that the State, with its existing laws and socially inadequate policies, is the main factor in depriving them of the enjoyment of these rights.

Through this report, the Caesar Families Association seeks to shed light on the effects of enforced disappearance on women by studying and analyzing their experiences in light of the legal frameworks in Syria and their interaction with social systems.

The report provides a brief overview of the legal frameworks related to enforced disappearance without going into deep analysis except in relation to what the women shared from their experiences, as the Association does not aim to present a purely legal study given the availability and comprehensiveness of such studies.

The report also seeks to contribute to the inclusion of women as victims of enforced disappearance in this analysis based on a victim- and rights-based approach, by measuring their experiences against the standards of effective remedy in particular.

The section of the report on the impact of enforced disappearance delves into an analysis of the experiences of women from different social and contextual backgrounds. This analysis addresses the immediate impact following the disappearance event itself and how existing systems, in conjunction with the absence of knowledge, contribute to the perpetuation and aggravation of this impact over time. This section also examines the interaction of the prevailing social system with the absence of appropriate legal frameworks, which places

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2 Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/54/58, 14 August 2023, para. 42.

3 Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/46/55, 11 March 2021, paras. 104-105.

women in a multi-faceted conflict of identity and survival, especially with regard to the responsibilities placed on their shoulders. The report shows how the impact extends to children's rights and the long-term repercussions, especially since displacement was a common feature among women, which had different consequences for them directly and for their families. This section also highlights the dilemma of the "death certificate", not only from a legal perspective, but also from the perspective of the social impact and legal shortcomings that contribute to the suppression of women's informed decision-making and leave them with only the most difficult choices. Finally, this section presents a unique aspect of the experiences of some women related to the disappeared victims of employees in the security and military apparatuses. In another section, the report addresses the potential role of the IIMP in prioritizing these women not only as information providers or beneficiaries of support services, but as key actors in achieving the IIMP's objectives.

Although the Caesar Families Association does not claim that this report and the experiences of the fifty women represent all women affected by enforced disappearance in Syria, the analysis provided by the Association through their diverse experiences provides a rich case study that can be considered an objective reflection of a common framework among all women affected by enforced disappearance. It is also worth noting that the negative experiences of some women with some parties do not necessarily mean a generalization of the poor performance of all actors and those interacting with victims and families but should be seen as an indicator of the need for an objective review of the policies and interventions of interaction with this category specifically and with victims and families in general. Therefore, the report draws on some international experiences that prove the intersection of the impact imposed by legal and social systems that are deficient and based on structural gender discrimination.

Finally, the report embodies a form of the victim-centered approach by developing it based on the vision and experience of the key stakeholders and comparing it with the effects of the legal and social reality on the one hand, and the available literature on the other. Therefore, the report avoids addressing the observed impact in a traditional way that starts from the problem or framework, but rather from the experience of women. Based on this, it is possible that other aspects of rights and experiences may be real in the experiences of other women, which does not mean that the report does not notice them. In the same context, the research concludes by presenting a vision of the role and impact of the interaction of women affected by enforced disappearance on the basis of effective participation based on rights and not merely responding to needs.



## Research Methodology

The report seeks to answer the following two interrelated questions:

- 1. What are the key challenges faced by women affected by enforced disappearance in Syria, based on their experience, at the social, economic, and legal levels?**
- 2. How do existing social and legal systems and/or their absence either exacerbate or address these challenges?**



The report adopts mainly an analytical approach that encompasses descriptive and quantitative components. The report combines the results of a desk review of both legal and procedural frameworks relevant to the main research questions, on the one hand, and a descriptive analysis of interviews with fifty women affected by enforced disappearance. The report presents a comparative analysis between desk review findings and the actual experiences of key informants (women affected by enforced disappearance). The report builds on a desk review of applicable legal frameworks (international and national) and literature related to enforced disappearance and its effects, with a particular focus on women as the main group vulnerable to these effects. This report focuses on primary and secondary sources of literature from stakeholders, including but not limited to relevant United Nations bodies such as the Working Group on Enforced and Involuntary Disappearances

(WGEID), the Committee on Enforced Disappearances, The Committee on the Elimination of Discrimination against Women, amongst others; relevant Syrian national laws, noting the variations of such frameworks across jurisdictions inside Syria where applicable; and specialized human rights, women's rights, and transitional justice organizations.

Simultaneously, the research included a desk review of available national and international literature of quantitative and qualitative studies as well as policy papers directly or indirectly related to the report's main topic. A central element of the review was social norms and how they often exacerbate women's risks and challenges in the context of enforced disappearances.

The desk review's findings were analyzed through the lens of assessing the extent to which enforced disappearances pose specific challenges to women alongside the gaps within the legal and social systems that are meant to protect and support them. The analysis integrated both quantitative and qualitative findings of the desk review while considering the challenges of varying contexts.

Semi-structured interviews were adopted to allow women to speak freely, with Caesar Families Association documenters able to ask follow-up and non-leading questions. Documenters transcribed the interview recordings according to a pre-developed matrix, which included key elements extracted from the desk review findings, to identify intersections in the fifty women's experiences, triangulating them with the desk review findings to corroborate or refute them. Prior to interviews, women were approached to conduct the interviews, and the idea and purpose of the report - namely that it is directly informed by their lived experiences - was explained. Accordingly, women gave their informed consent to share their experiences, knowing that this content would be used solely for analysis purposes, and engaged with the Caesar Families Association Documentation Team through interviews that were conducted in person or remotely.

## 1. Introduction to The International Legal Framework of Enforced Disappearance and Its Impact on Women

### 1.1 The Concept of Enforced Disappearance

Enforced disappearance is a grave human rights violation that has persisted throughout history, leaving victims and their families in a state of anguish and uncertainty. Enforced disappearance has been a tragic reality in various regions and time periods, with documented cases dating back decades. The need for a comprehensive legal response was recognized by the international community after the widespread occurrence of enforced disappearances during the 20<sup>th</sup> century, particularly in Latin America and other conflict zones. The cries for justice and accountability led to the development of international instruments aimed at combating this heinous crime.

According to Article 2 of the 2006 ICPPED, enforced disappearance “is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.” While this definition requires the involvement of State actors, Article 3 of the ICPPED provides for situations where persons or groups not representing the State commit acts that would constitute enforced disappearance under Article 2. Thus, enforced disappearances are not limited to those perpetrated by State actors, and the Rome Statute of the International Criminal Court recognizes enforced disappearance committed by an organized political group (i.e., a non-State actor) as a crime against humanity when committed as part of a widespread or systematic attack directed against a civilian population.<sup>4</sup>

### 1.2 Rights Affected by Enforced Disappearance

The gravity of enforced disappearance is that it is linked to and affects a series of other rights of the disappeared person and his family, given that the main feature of enforced disappearance is the deprivation of the protection of the law. The most prominent of these rights are:

**The right to liberty and security of person:** Victims of enforced disappearance are arrested, detained or abducted usually without a legal basis. This right is enshrined in Articles 3 and 9 of the 1948 Universal Declaration of Human Rights and Article 9 of the 1966 International Covenant on Civil and Political Rights (ICCPR).

**The right to life:** Enforced disappearance often puts the life of the disappeared person at risk, especially when there is a lack of information about their fate or their whereabouts. In some cases, enforced disappearances lead to extrajudicial killings. Article 6 of the ICCPR is the most prominent provision of international law that prohibits arbitrary deprivation of life.

**Torture and ill-Treatment:** Victims of enforced disappearance are frequently subjected to torture or cruel, inhuman or degrading treatment (ill-treatment) while in detention. Moreover, it is settled in international practice that enforced disappearance per se may amount to torture, both for the victim and for the relatives, owing to the uncertainty and anguish caused.<sup>5</sup> In addition to the prohibition against torture and ill-treatment

4 Rome Statute establishing the International Criminal Court of 1998, Article 7(2)(i).

5 Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/16/48, 26 January 2011, para. 39 (General



in Article 7 of the ICCPR, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture) of 1984 is the most prominent international instrument that prohibits and criminalizes torture and ill-treatment. It is a peremptory norm of international law that cannot be restricted, derogated from or withdrawn from.

The right to an effective remedy and to a fair trial: These two fundamental human rights are jeopardized when individuals are secretly detained and deprived, along with their families, of access to legal representation or due process including reparation. The denial of these rights is closely linked to the result described in the definition of enforced disappearance, namely the placing of the victim outside the protection of the law. Besides violating the right to an effective remedy as enshrined, inter alia, in Article 2 of the ICCPR, the conditions and elements of a fair trial that are corollaries of the protection of the law as described in Article 14 cannot be guaranteed while the disappeared person being placed outside the protection of the law.

Freedom of expression and association: Enforced disappearance is often used to silence dissent and to intimidate individuals who exercise their rights to freedom of expression or association or assembly. Articles 19 and 22 of the ICCPR address these rights; enforced disappearance of individuals because of their opinions or affiliations would constitute in itself an arbitrary interference with and a violation of these two provisions.

The right to privacy: Article 17 of the ICCPR prohibits arbitrary or unlawful interference with an individual's privacy, family, home or correspondence, and obliges States to protect individuals against such interference. Enforced disappearance necessarily constitutes an arbitrary and unlawful interference with the individual's privacy; the abrupt and clandestine removal of a person from his community disrupts his private sphere, causing anguish not only to the disappeared individual but also to the families left behind.

### 1.3 Legal Impact of Enforced Disappearance on Women

Women impacted by enforced disappearance of male relatives suffer multifaceted rights violations. The impact extends beyond the disappeared individuals, to the rights of the women left behind. The following are some of the fundamental rights that are often affected:

The Right to Family Life: The right to family life is severely compromised when a male relative is subjected to enforced disappearance. Women are deprived of the presence and support of their family members, disrupting the fundamental unit of society and violating their right to preserve family ties as enshrined in Article 23(1) of the ICCPR.

The Right to Information: Women have the right to know the fate and whereabouts of their disappeared male relatives. Enforced disappearance often involves the withholding of information by State authorities, leaving women without the right to truth about their loved one's fate. The CEDAW in Article 10 recognizes women's right to access relevant information to their lives. Enforced disappearance deprives women of this right, keeping them in the dark about the fate of their male relatives. This lack of information perpetuates psychological distress and hinders their ability to make informed decisions about their lives.

The Right to Physical and Mental Integrity: The psychological toll on women is immense as they grapple with the uncertainty and anguish caused by the disappearance of a male relative. The right to mental health is compromised as women experience anxiety, depression, and trauma, which are exacerbated by the lack of

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Comment on the Right to Truth in Relation to Enforced Disappearance, para. 4).

information. The stress and trauma associated with the disappearance can also put women's physical and mental health at risk. Prolonged distress and uncertainty can lead to long-term health implications, violating their right to physical and mental integrity. This contravenes the right to the enjoyment of the highest attainable standard of physical and mental health under Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 12 of CEDAW.

**Right to Access to Justice:** Women have the right to seek justice and remedies for human rights violations, including enforced disappearances and their effects. However, the clandestine nature of these practices often impedes access to justice, leaving women without adequate legal avenues to challenge disappearances and seek accountability, in violation of the right to effective remedy enshrined in Article 2 of the ICCPR.

**Right to Non-Discrimination:** Discrimination against women may arise based on the perceived political affiliation or activities of a disappeared male relative. Women may face stigmatization and marginalization within their communities, violating their right to non-discrimination, which is a fundamental principle of international law. Furthermore, the inability of women affected by the disappearance of a relative to enjoy rights on an equal basis with other women constitutes discrimination against them. The principle of non-discrimination in the CEDAW is breached when women face stigma, marginalization, and discrimination based on the perceived activities or affiliations of their disappeared relatives. Disappearances often cast long shadows, exposing women to undue judgment and discrimination within their communities.

**Right to Participate in Public Life:** The disappearance of a relative can lead to a woman's social isolation, limiting her ability to fully participate in public life. This includes participation in community activities, employment, and other aspects of public engagement, which are rights protected under the 1966 Covenants and other international instruments, notably CEDAW.

**The Right to Work, Property and an Adequate Standard of Living:** In situations where the disappeared relative was the main provider, women may face economic hardship, affecting their right to property and an adequate standard of living. The economic consequences of enforced disappearances can exacerbate the overall vulnerability of affected women; this includes the violation of the right to an adequate standard of living under Article 11 of the ICESCR. The disappearance of a male relative often disrupts the economic stability of the family. Many women, particularly those who were dependent upon their disappeared male relatives for economic support, find their right to work jeopardized, contrary to art. 6 of the ICESCR and Article 11 of the CEDAW.

**The Right to Privacy:** The right to privacy is affected, as women often find themselves under scrutiny, either by State authorities or by society, because of the disappearance of their relatives. Surveillance and intimidation-type tactics can violate their right to privacy, and women are denied access to information about the fate and whereabouts of their loved ones. This lack of information violates their right to know the truth, heightening their emotional distress, as the State's refusal to provide basic details invades their privacy. Affected women also face stigma and social isolation, which further violates their privacy; they may be ostracized by their communities because of their association with the disappeared person, violating their right to live free from arbitrary interference.

## 2. Comparative Approach to the Syrian National Framework for Dealing with Enforced Disappearance and its Impact on Women

### 2.1 Enforced Disappearance in Syrian Law

Despite Syria's non-ratification to the ICCPED, the Syrian state has legal obligations to prohibit enforced disappearances pursuant to the provisions of the relevant international law including, but not limited to, the ICCPR, International Humanitarian Law (IHL), and other international instruments, most notably the Declaration on the Protection of all Persons from Enforced Disappearance (the Declaration). Several U.N. bodies have affirmed that the practice of enforced disappearances in Syria is widespread and systematic.<sup>6</sup>

The Syrian Arab Republic maintained in its national report that there "is no term referenced as enforced disappearance in Syrian law." The government stated that the law criminalizes "kidnapping and detention" which, according to the Syrian government, is internationally defined as enforced disappearance. In this regard, the government referred to Legislative Decree No. 20 of 2013, which criminalizes the act of kidnapping if committed with a specific criminal intent to achieve a political or material objective, on grounds of revenge, for ransom, or for sectarian reasons.<sup>7</sup> This was reiterated by the Permanent Representative of Syria to the United Nations at the adoption of the outcomes of the Third Universal Periodic Review.<sup>8</sup>

Article 33 of the Syrian Constitution provides that liberty is a sacred right, stressing the commitment of the State to protect the freedom and dignity of citizens. This Article is considered a constitutional guarantee against enforced disappearances, as unlawfully depriving a person of his liberty and keeping their place of detention unknown from their family and relatives constitutes a violation of human rights and dignity. The restrictions imposed on arrest and detention are part of the judicial guarantees to prevent enforced disappearances as it is a requirement under the law that the arrest of any individual must be based upon a judicial decision, and this individual must be informed of the reasons of their arrest and the rights guaranteed by the law.<sup>9</sup> Therefore, these provisions are considered signals by the legislator of the duty to preserve the legal protection of individuals deprived of their liberty in all circumstances.

The Syrian Penal Code also punishes the perpetrators of freedom deprivation crimes with imprisonment,<sup>10</sup> regardless of the perpetrator's capacity, and provides for a stiffer penalty if the perpetrator is a government official, with a penalty increase for perpetrators of assault or abuse of power, whether instigators or accomplices,<sup>11</sup> entailing an increase in the term of imprisonment and the fine according to the Law.<sup>12</sup> Also, the Criminal Procedures Code imposes a duty on anyone who becomes aware of the detention of any person in a place not designated for detention to report immediately,<sup>13</sup> and imposes an obligation on the relevant authorities to go to

6 Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/49/77, 8 February 2022, paras. 37-44.

7 Human Rights Council, National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1, Syrian Arab Republic, 17 November 2021, UN Doc A/HRC/WG.6/40/SYR/1, para. 44.

8 Considerations of the Universal Periodic Review report on Syria, twenty-ninth meeting of the fiftieth regular session of the Human Rights Council, 30 June 2022, speech by Ambassador and Permanent Representative of the Syrian Arab Republic to the United Nations Office in Geneva.

9 Syrian Constitution of 2012, Article 53.

10 Law No. 148 of 1949, Penal Code, Article 555.

11 Law No. 148 of 1949, Penal Code, Article 367.

12 Law No. 148 of 1949, Penal Code, Article 247.

13 Law No. 112 of 1950: Code of Criminal Procedure, Article 424

the location and release the unlawfully detained, and if neglected, they are considered accomplices in the crime of deprivation of personal freedom and are legally pursued.<sup>14</sup>

The Syrian legal framework is deficient in prohibiting and criminalizing enforced disappearances in line with international standards. The absence of a requirement for denial in cases of deprivation of liberty is not compatible with the concept of enforced disappearance. Whilst State officials may be able to lawfully deprive individuals of their liberty, they may fail to account for the whereabouts of such individuals without any legal repercussions, which means that enforced disappearances are not limited to abductions,<sup>15</sup> which do not necessarily imply a denial by the perpetrator or failure to account for the fate of the victim. Furthermore, in the absence of express provisions obliging the disclosure of the whereabouts of the detained individual, the authorities responsible for supervising the administration of justice cannot be expected to review such matters.

Syrian law is ambiguous with regard to the time limits that law enforcement agencies can hold a person in custody before bringing them before a judicial authority. Article 358 of the Penal Code establishes a punishment for officials who accept a person without a warrant, which prescribes a period of 24 hours that a person detained on the basis of a summons can be held before being questioned by a judge.<sup>16</sup> Legislative Decree No. 55 of 2011 allows the judicial police to hold suspects for seven days with the possibility of renewal by the public prosecutor for up to 60 days, which conflicts with Human Rights Committee jurisprudence stating that the requirement of “prompt” bringing before a judicial authority should be within 48 hours, regardless of whether or not criminal charges are brought.<sup>17</sup>

Article 422 of the Code of Criminal Procedure refers to a monthly inspection for detainees for investigation in accordance with Legislative Decree 55 of 2011, which may subject them to enforced disappearance for at least a month, assuming that it is implemented on a regular basis. The absence of a legal provision obligating the law enforcement authorities to notify the detainee’s family or reveal his place of detention exposes them to enforced disappearance despite the monthly inspection, for this inspection will not address the failure to inform the family as a violation because there is no legal text that dictates this. The issue of secret detention centers that are under security and intelligence authority and are not subject to judicial oversight is also highlighted. The WGEID refers to a set of measures that limit the possibility of enforced disappearance occurring and ensure the right of relatives of the missing, their lawyers, and all those with a legitimate interest to access information. Among these measures is that each person deprived of liberty be in official places of detention that can be recognized in accordance with international law. The use of secret detention centers that violate the Declaration should not be justified or legitimized under any circumstances.<sup>18</sup>

## Summary

Despite not being party to the ICPPED, Syria is legally bound to prevent enforced disappearance under its Constitution and international law. While the government contends that the term “enforced disappearance” is not defined in Syrian law, there is a legal framework that criminalizes deprivation of liberty. However, this

14 Law No. 112 of 1950: Code of Criminal Procedure, Article 425.

15 Legislative Decree No. 20 of 2013.

16 Law No. 112 of 1950: Code of Criminal Procedure, Article 104 (1).

17 Human Rights Committee, General comment No. 35: Article 9 (Liberty and security of person), CCPR/C/GC/35, 16 December 2014, para. 33.

18 WGEID, General Comment No.3 on Article 10 of the Declaration on the Protection of All Persons from Enforced Disappearance, UN Doc E/CN.4/1997/34, para 22-24.



framework is inadequate to address the crime of enforced disappearance, including the failure to disclose the whereabouts or fate of detained individuals. Moreover, Syrian law lacks clarity and enforceability around the concept of enforced disappearance and the period of time that suspects can be held before being brought before a judge. Vague and open-ended legal provisions allow for multiple interpretations, potentially leading to suspects being held for prolonged periods without due process. The prevalence of unofficial places of detention also poses challenges, as it enables security forces to evade judicial and humanitarian oversight, making it difficult to safeguard the rights of detainees and prevent enforced disappearances.

## 2.2 The Right to Know in Syrian Law: The Burden on Families

The lack of a legal obligation on the part of law enforcement authorities to disclose the whereabouts and fate of detained individuals, and the discernible impact of intentional concealment on the exercise of this right, violate the very essence of Article 10 of the Declaration. Paragraph 2 clearly articulates that comprehensive information - supplied promptly - must be provided to the detained person's family or legal representative regarding their arrest, place of detention and any transfer occurring thereafter. In this context, it can be posited that as part of the safeguards against enforced disappearance, the State must operate a central, up-to-date register of such information accessible to family members or legal representatives.

Syrian law places great emphasis on the perpetrator and punishment, and less on the victim. The public prosecutor has a dual function: as the representative of society, and as the initiator of public prosecutions against any suspected perpetrator, regardless of whether or not the victim has made a complaint or filed a report.<sup>19</sup> The public prosecutor is obliged to initiate a prosecution if the victim/aggrieved person submits a complaint,<sup>20</sup> and the law provides that any person who "considers himself injured by a misdemeanor or felony may lodge a complaint to initiate a case as the plaintiff".<sup>21</sup> In the absence of a legal obligation on the part of any official authority to disclose the whereabouts and fate of detained individuals, initiating a complaint remains the only option available to the families of detainees, particularly when all other avenues of personal inquiry and approaches they make to multiple security and military agencies prove to be dead ends or, as is often the case, are met with obstruction.

Filing a legal complaint requires the complainant to prepare and sign a formal report.<sup>22</sup> This might seem like an ordinary and reasonable measure if it were in a State governed by the rule of law and human rights; however, the reality is that in Syria, nobody would dare to take such action, since people's abductions and disappearances are carried out either directly by Government forces or by entities acting on their behalf or within the sphere of State security and military agencies. In addition to this judicial proceeding that, by its very nature, is at odds with Article 13 (1) of the Declaration, there are no other official reporting and access-to-information mechanisms available for enforced disappearance victims' families;

"Each State shall ensure that any person having knowledge or a legitimate interest who alleges that a person has been subjected to enforced disappearance has the right to complain to a competent

19 Law No. 112 of 1950: Code of Criminal Procedure, Article 1(1).

20 Law No. 112 of 1950: Code of Criminal Procedure, Article 1(2).

21 Law No. 112 of 1950: Code of Criminal Procedure, Article 57.

22 Law No. 112 of 1950: Code of Criminal Procedure, Article 59, also Article 27.

and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority. Whenever there are reasonable grounds to believe that an enforced disappearance has been committed, the State shall promptly refer the matter to that authority for such an investigation, even if there has been no formal complaint. No measure shall be taken to curtail or impede the investigation”.

This action should always be preceded by the provision of accurate information to the family about the specific conditions of a person’s detention and the place where they are being held, pursuant to Article 10 (2) of the Declaration:

“Accurate information on the detention of such persons and their place or places of detention, including transfers, shall be made promptly available to their family members, their counsel or to any other persons having a legitimate interest in the information unless a wish to the contrary has been manifested by the persons concerned.”

It shall also be recalled that under IHL applicable during armed conflict, the Syrian State is obliged to ensure delivery of news and mail between persons deprived of their liberty for reasons related to the armed conflict and their families, subject to reasonable conditions as to frequency and the necessity of control by the authorities. The State and the other parties to the armed conflict shall also take all feasible measures to account for persons reported missing as a result of the armed conflict and to provide their family members with any information they have on their fate. These obligations reflect rules of Customary IHL binding on all parties to the conflict in all circumstances.<sup>23</sup>

During the recent discussion of the National Report under the Universal Periodic Review, the Ambassador, Permanent Representative of Syria to the United Nations, indicated that the Syrian Government had put in place a mechanism for inquiring about those missing during the war. He explained that as before, the Ministries of Justice, Interior and National Reconciliation received requests from citizens inquiring about persons detained by the official authorities and they responded to the requests by clarifying the grounds for their detention, its location, the suspected crime and the judicial authority to which the citizens had been referred, in addition to the legal measures taken against them. The ambassador stressed that there were no secret lists containing the names of missing persons, that circulars had been issued by the competent bodies to notify the relatives of missing persons where appropriate and that the names of persons detained in prisons were made public and that they had the right to contact their families.<sup>24</sup>

Given this claim of forming an official mechanism to inquire about the missing, it is in itself evidence that the Syrian State has failed to provide a mechanism for notifying and sharing information with the families of those detained by its various authorities. It is clear from the statement of the Permanent Representative of Syria that families bear the burden of inquiring about detainees, which confirms that there is no legal obligation on the authorities to provide notification not only of the place of detention but also of its cause and the procedures taken against the detainees as well. In addition, there is no publicly available information about this alleged mechanism, and the COI has confirmed that this mechanism is just a group of entities that are ostensibly aimed at revealing the fate of the missing and forcibly disappeared persons, and helping families locate their relatives.

23 International Committee of the Red Cross, Study on Customary International Humanitarian Law, Rules 105, 117, 125, and 126.

24 Considerations of the Universal Periodic Review report on Syria, 29<sup>th</sup> meeting of the 5<sup>th</sup> regular session of the Human Rights Council, 30 June 2022, speech by Ambassador and Permanent Representative of the Syrian Arab Republic to the United Nations Office in Geneva.

However, in reality, very little information has come to light, as family members of detainees and missing persons in Syria have reported that they have been unable to obtain crucial information about the whereabouts of their relatives despite contacting these entities, as indicated by the Syrian Ambassador. This not only confirms the limited extent of these entities' effective outreach to the affected families but also that the least fortunate among them were those families whose members were lost to the conflict's various parties.<sup>25</sup>

#### Summary

The failure to adhere to the Declaration unequivocally exposes individuals to the risk of disappearing without recourse to law. It is imperative that the whereabouts and fate of those in detention are established immediately and transparently, in a manner consistent with the State obligations under international law. The government must create effective mechanisms to promptly provide information and regular updates to families, with legal provisions to ensure that information is accurate and easily accessible. Responsibilities also fall on Syrian authorities to ensure effective communication with the relatives of the missing and detained, guaranteeing their right to information and support.

### 2.3 The Law of the Absentee or Missing Person: Additional Challenges

Article 34 of the Syrian Civil Code issued by Legislative Decree No. 84 of 1949, states that "The provisions prescribed in special laws shall apply to missing and absent persons, and if such laws do not exist, then the provisions of the Islamic Sharia shall apply". Article 202 of the Personal Status Law No. 59 of 1953 states that: "A missing person is any person whose life or death is unknown, or whose life is certain, but his whereabouts are unknown". Article 203 defines the similarity between missing and absent persons, by stating that: "An absent person is considered missing where force majeure circumstances have prevented him from returning to his residence or managing his own affairs, or the affairs of his agent, for a period exceeding one year, and this has led to a disruption of his affairs or the affairs of others".

With regard to the end of the status of missing, Article No. 205 stipulates that it ends either by the return of the missing person, or by establishing his death, or by a judgment declaring him dead upon reaching the age of eighty. However, the legislator, in the same Article, exempted missing persons from being considered dead after four years of his disappearance, in the event of military operations, or similar cases stipulated in the military laws in force, in which death is likely to occur.

In 2019, Legislative Decree No. 15 was issued, adding two articles to the Military Service and Internal Security Forces Military Service Laws, in addition to amending two articles of the laws. This law defined a missing person as "a military serviceperson whose life or death is unknown, or whose life is certain, but his whereabouts are unknown due to war, military operations, or similar cases, or at the hands of a terrorist gang or hostile elements, or as a result of normal military service". This Legislative Decree considered the missing person, in accordance with this classification, a martyr and consequently his family will benefit from the benefits and rights granted to martyrs according to the Military Pensions Law No. 17 of 2003, or the Internal Security Forces Military Service Pensions Law No. 2 of 2012. Therefore, the Syrian law discriminates legally against the families of civilian missing

25 Human Rights Council, Independent International Commission of Inquiry on the Syrian Arab Republic, Syria's Missing and Disappeared: Is there a Way Forward? Recommendations for a Mechanism with an International Mandate, 17 June 2022, p. 2.

persons and deprives them of the privileges granted to families of missing military servicemen, such as the right to receive the missing military serviceman's salary one year after the date of disappearance.

Before 15 September 2021, the Sharia judge was competent to authorize the issuance of powers of attorney for the absent and the missing at the request of their relatives, enabling them later to, for example, collect salaries and retirement pensions, or obtain certain official documents. However, on that date, the Ministry of Justice issued a circular stating that it was necessary to obtain the "requisite security approvals" as a substantial and prior condition for initiating the procedures for issuing powers of attorney for the absent and the missing, in line with most types of general and special powers of attorney.<sup>26</sup> Even though obtaining a judicial power of attorney for the absent or the missing primarily required difficult and costly bureaucratic administrative procedures,<sup>27</sup> and did not grant the power to dispose of the property of the absent or missing, it was, at the very least, not adding to the burden of the missing person's relatives, as is the case with the requirements for other judicial powers of attorney.

It shall be emphasized that the State has a duty to provide the family with the broadest possible scope of protection in the context of the right to social security, including by assisting them to adjust to being affected by the disappearance of the person who is absent, which is considered a form of reparation. This assistance, and any other measures classified as providing reparation, should not be complicated nor subject to, for example, a death certificate.<sup>28</sup> In order to ensure that family members are not deprived of exercising their rights and meeting their obligations as a result of legal uncertainty arising from the absence of the disappeared person, which has several consequences that violate the right of such individuals to a legal personality, the WGEID encourages States to create alternative measures that take into account the specific nature of the situation of absence and its implications, such as establishing institutions that are designed to address the issue of the impossibility of ascertaining a person's death, and issuing a "presumption of death", "declaration of absence" or a "certificate of absence due to enforced disappearance",<sup>29</sup> which should act as a tool to facilitate the enjoyment of the rights of the family, and not as a mechanism to hinder their enjoyment and expose them to extortion and security risks.

The graveness and intricacies of the procedures in the Syrian law for reporting an individual's disappearance and having them legally declared "absentee" present a time-sensitive legal challenge that can have far reaching consequences. A family that is unable or too apprehensive to follow the mandated measures is, before the eyes of the law and the official institutions, a "typical" family for whom the laws and legal measures that do not carry any special considerations for the families of individuals who are legally categorized as absentee or missing persons. For example, during the years when the disappearance has not been reported, an absentee, under the letter of the law, is considered someone who has missed work, and his family is not entitled to manage any of the entitlements or property connected to them. Should the family later decide, or should they be able to, follow the administrative and legal processes for reporting an individual as absent and obtain a judicial power of attorney that gives them the capacity to take the actions legally permitted, the duration of the "absentee" period will

26 Syrian Arab Republic, Ministry of Justice, Circular No. 30, September 15, 2021.

27 See: Syrian E-Government Portal, Ministry of Justice, Justice Departments in the Governorates, Sharia Courts, Judicial Services, Judicial Agent for the Absent or Missing.

28 Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/22/45, 28 January 2013, para. 50.

29 Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/19/58/Rev.1, 2 March 2012 (General Comment on the right to recognition of the legal personality in the context of enforced disappearance, p. 14, Para 7).



most likely be calculated from the date the report is made, not from the date of the actual disappearance. This could leave the family facing legal complications for years to come, including the legal status of its members being affected as well as the family's ability to fully exercise a range of rights tied to the legal status of the missing family member.

### Summary

Syria's laws related to missing persons and absentees evidence cumbersome reporting and status determination procedures, resulting in insufficient protection of family rights and posing legal challenges. Furthermore, the legislation differentiates between civilian and military missing persons, leading to unequal treatment and entitlements between the two categories. To address these shortcomings, the Syrian government should enact more comprehensive and efficient laws and procedures to safeguard the rights of families and facilitate legal procedures concerning missing persons and absentees, in line with international human rights standards.



### 3. The Societal Framework Impacting Women Affected by Enforced Disappearance

The impact of enforced disappearances on women involves not only the legal frameworks in force in a given country, but it also interacts with the prevailing social system. This is particularly true with regard to the systemic discrimination faced by women and girls within societies in general. “This discrimination results in hierarchical relationships between men and women and a distribution of power and rights that favors men while disadvantaging women.”<sup>30</sup> When enacting national laws, legislators likely considered this social system as the basis for their legislation. They often face opposition from various societal sectors if they attempt to change what may be seen as conflicting with the entrenched social order. Women affected by enforced disappearances confront multiple and intersecting social structures of injustice and marginalization, often rooted in patriarchal norms and reflected in law. For instance, the denial of women’s access to education, especially after marriage, affects their employment opportunities and ability to address the economic consequences of their partner’s disappearance.

The impact of patriarchal societies on women affected by enforced disappearances exacerbates their vulnerability and suffering. Enforced disappearances are primarily targeted at men. Nevertheless, the consequences for women, particularly as family members of the disappeared, are profound and distinct due to the gendered dynamics within patriarchal societies.

The suffering experienced by women affected by enforced disappearances results from violations of both substantive and procedural rights. Procedurally, women face barriers in accessing legal mechanisms and support services. For instance, in Argentina during the dictatorship, wives and mothers of the disappeared struggled to obtain official information regarding their missing family members and faced challenges in gaining access to legal and social support.<sup>31</sup> Similarly, in Africa, women victims of enforced disappearances experience increased risk of sexual harassment,<sup>32</sup> negatively impacting their social and economic well-being.

The impact of enforced disappearance on women is complex and multifaceted. In practical terms, women are often left to bear the social and economic consequences of the absence of a breadwinner, making them vulnerable to a range of challenges and hardships. In patriarchal societies, the experiences of women are often marginalized, and their voices discounted, with the views and preferences of men often being prioritized.

The intersection of enforced disappearance with patriarchal values and expectations thus exacerbates discrimination against and disempowerment of women, submerging them in a landscape of uncertainty, isolation and precarity. The stigma attached to such experiences further contributes to their marginalization, curtailing their access to much-needed support and justice. Moreover, this stigma and societal expectations hamper their ability to effectively engage with truth and justice processes, adversely affecting their access to legal assistance and support. Overall, the interconnected social, economic and psychological impacts of enforced disappearance intersect to compound the challenges faced by women in patriarchal societies.

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30 Committee on the Elimination of Discrimination against Women, General Recommendation No. 28 on basic obligations of States parties under Article No. 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 16 December 2010, para. 5.

31 See, for example: Amrita Kapur and Sama Alshaibi, *The Impact of Enforced Disappearance on Women*, in Jennifer Heath and Ashraf Zahedi (Eds.), *Book of the Disappeared: The Quest for Transitional Justice*, University of Michigan Press (2023), pp. 62-90.

32 See, for example: Anna Asproni, [Why we need gender-specific provisions on enforced disappearance in Africa](#), PeaceRep, 16 August 2022.

These experiences converge among women affected by enforced disappearance in different regions that share, to different degrees, a patriarchal social order. In Yemen, women affected by enforced disappearance articulate a clear consciousness that they are contesting not only the particular injustices perpetrated against them and their families but also complex and intersecting layers of social structures of oppression. Time and again, these women have testified to experiences of exclusion from educational opportunities, economic resources, and wider social participation.<sup>33</sup>



33 For more details, see: Sarah Al-Areqi, [“If Only...” Women’s Resistance and Hope in the Face of Enforced Disappearance in Yemen](#), Yemen Policy Center, December 2022.



## 4. Challenges Faced by Women Affected by Enforced Disappearance in Syria

While the legal and social frameworks inherently suggest many of the challenges faced by women affected by enforced disappearance in Syria, the lived experience of Syrian women reveals challenges that are more complex and intersectional, and, in many ways, unique. A key commonality is that women face these challenges for reasons of gender discrimination that often intersect with “multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors. Such discrimination may affect these groups of women primarily, or to a different degree or in different ways than men. [This calls for the] need to take specific temporary special measures to eliminate such multiple forms of discrimination against women and its compounded negative impact on them.”<sup>34</sup>



### 4.1 “I Don’t Know” How to Look for Him

All women participating in the research answered “I don’t know” to questions about any specific administrative or judicial measures to report or search for the disappeared, or any other procedures for following-up on financial, job-related, property, or civil status issues during that person’s disappearance.

It is of course logical that not all inhabitants are thoroughly familiar with the details of legal and administrative procedures in all contexts. This is the reason why people resort to lawyers and other specialists in order that they may undertake legal and administrative follow-up with regards to the various affairs in their lives. But in

<sup>34</sup> Committee on the Elimination of Discrimination Against Women, General recommendation No. 25: article 4, paragraph 1, of the Convention (temporary special measures), 2004, para. 12.

cases of disappearance, it is not a question of merely completing legal and administrative paperwork as might be the case in normal circumstances. Instead, what is required are several levels of intervention that cannot be dealt with routinely by legal and administrative procedures.

The moment a woman realizes the disappearance of a person, her concern and her anxiety are at their peak, which essentially excludes the possibility that the woman will be in a psychological and mental state that enables her to logically envision the procedures required by law that she ought to follow—should they indeed exist. Enforced disappearance removes victims from the protection of the law. Consequently, the time factor is critical in limiting or exacerbating the expected danger to the victim. In conditions of this nature, women desire the fastest and most effective interventions aimed at restoring the protection of the victim. For this reason, it is the duty of the State to guarantee the right and ability to report along with the duty to carry out a quick and effective investigation by the authorities, without requiring that reporting or other search and investigation measures take the form of an official complaint.<sup>35</sup> Given the critical importance of the time factor, international instruments have focused attention on the need for women/families not to be obligated to follow the customary procedures by means of an official complaint. Consequently, it means, in practical terms, instituting specific measures that are clear and easy to use for reporting cases of disappearance.

Not one of the women participating in the research was aware of any specific procedure she could follow both at the time of her relative's disappearance in order to report and search for them and at later stages during the process of searching for the disappeared. These women, therefore, shoulder a double burden when their relative disappears: anguish and anxiety about the missing person, on the one hand; and the burden of searching for the appropriate official measures and procedures that will lead to them having recourse to official authorities, on the other.

Since none of the interviewed women knew any available safe mechanisms to directly approach authorities, many of them resorted to social media to search for information about either the disappeared person themselves or the potential channels through which they could find out about their whereabouts and fate. Their experiences in this regard widely varied but can be summarized as follows:

- Influence and connections through family and community circles: The first resort of many women affected by enforced disappearance, immediately following the incident, is to seek and rely on influential figures, people with connections or what is commonly known as “wasta” (connections) through family and community circles. As a result of the prevailing beliefs and shared community experiences in Syria, women gave priority to this approach instead of immediately turning to official authorities. This preference is not necessarily due to a cultural flaw as some might assume; rather, for these women specifically, resorting to the official bodies and channels is likely to lead to the possibility if not certainty of exposure to various forms of mistreatment, persecution, and harassment by the same authorities. Consequently, women believe influential figures and people with connections may be more equipped to explore the official channels without risking being exposed to the arbitrariness and exploitation of the security apparatus, regardless of whether or not these interventions lead to information or positive results. For these women, it is a matter of evaluating the least harmful, rather than the most beneficial or successful, course of action for them.

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35 Declaration for the Protection of All Persons from Enforced Disappearance (1992), Article 13; International Convention for the Protection of All Persons from Enforced Disappearance (2006), Article 12.

- Paid “services”: Not all women benefit from what may be referred to as the “privilege” of access to influential figures or connections through their immediate family or community circles. It is in these cases that individuals known as brokers or paid intermediaries step forward. They include - but are not limited to - security personnel - regardless of their rank or position - and lawyers, as well as other self-proclaimed influential figures with connections. This category overlaps with the previous one, since influential figures often ask - or rather demand - sums of money from women in exchange for promising to provide them with information about the victims. In all cases in which women resorted to this approach, nothing came of their efforts except receiving false promises, paying more money, and/or losing contact with the individuals altogether. A very limited number of women received certain information about the victim’s whereabouts, and even fewer were actually able - at some point during the disappearance - to verify the information, before losing contact with the victim again either as a result of them being moved to another detention facility or the continued refusal of the authorities concerned to allow any contact or visitation. For the majority of women resorting to this approach, however, what they experienced was repeated “blackmail” from these individuals - continuously requesting more money on the pretext that the matter was more complicated than they had thought and there was a need to appease influential figures in various positions and ranks.
- Documentation and the absence of informed consent: it was apparent that a number of women had “mixed up” the difference between legal documentation by certain organizations and sharing information for the purposes of an immediate search for the victim and working to obtain information on his fate and whereabouts. These women reached these organizations, particularly through social media, and they were interviewed and their data and details of their disappearance were recorded, without providing them with the requirements of informed consent on the nature and purposes of this documentation as demonstrated by the fact that some of them expected monitoring and information on the victims from these organizations.
- Direct search: The most difficult option for a number of women was to start a direct field search process immediately after the victim’s disappearance. There is no common pattern for the search and questioning due to the multiplicity of the security agencies and bodies and their controlled locations and awareness of their responsibility for the disappearance and accessibility and other considerations. Most women’s experiences in this process were characterized by a mix of elements from the previous processes and other harassment experiences. A number of them were threatened just for asking about the victim, while others fell into the trap of extortion by some members or officers at the security facilities where they had gone to ask questions. The anguish and anxiety during this experience are doubled due to their fear for the victims themselves when they ask about them. The potential for revenge on these victims is very real, so women make a hard decision between seeking information and enduring the challenges, threats, and harassment they face, and endangering the victims whose price could be their death.

Families of victims of enforced disappearances commonly share, in many different contexts around the world, the predicament of ineffective or non-existent legal and administrative processes to report and search for their relatives. In Pakistan, despite constitutional guarantees against enforced disappearances, families face similar challenges of reporting and accessing information on whereabouts and fate of their disappeared due to the unavailability of the formal legal system to them. Although First Information Reports (FIRs) are available for families to register with the police upon the disappearance of a person, authorities have deliberately delayed and obstructed such registrations and refused to register any information that would indicate involvement of security or intelligence agencies. Families are forced to move to the Supreme Court in Pakistan to compel the registration and take appropriate action. Such litigation, however complex, can take several months to complete, failing the duty of authorities to provide prompt and effective remedies and leaving the fate of the victim at further risk while incommunicado and outside the protection of law.<sup>36</sup>

## 4.2 “I Don’t Know” What to Do After His Disappearance

The absence of knowledge about other procedures for dealing with the effects and consequences of a disappearance at the legal, administrative and personal finance entitlement levels is not dissimilar.

All women whose disappeared relatives were employed by the government did not know how to address their salaries and compensation. Some of them notified the victims’ workplaces, and the invariable response was the suspension of all salary and other benefits entitlements, without any additional information to enable them to follow up on the matter legally or otherwise. Some women were threatened by the bodies that employed the victims, despite being civilian institutions with no security role of any kind. Following advice or assistance from relatives or acquaintances, some women were forced to resort to temporary “workarounds” to the immediate suspension of entitlements, such as arranging a sick leave certificate. In all cases, none of the women had enough knowledge to take any action, and partly relied on family and wider community networks or took the risk of approaching the employing institutions directly.

The women whose disappeared male relatives were employed in the private sector shared a similar experience. The private sector companies generally took the same line as government bodies, suspending salaries and refusing to grant any compensation or other entitlements. Although some women had a general awareness of the existence of the social welfare system, they did not have a detailed knowledge of the legal and administrative procedures they needed to follow to try to claim entitlements, such as whether their relative’s status legally qualified his family to claim insurance payments.<sup>37</sup>

“The [Committee on the Elimination of Discrimination against Women] has documented many examples of the negative impact of intersecting forms of discrimination on access to justice, including ineffective remedies, for specific groups of women. Women belonging to such groups often do not report violations of their rights to the authorities for fear that they will be humiliated, stigmatized, arrested, deported, tortured or have other forms of violence inflicted upon them, including law enforcement officials. The Committee has also noted that,

<sup>36</sup> For more details, see: Amnesty International, *Living Ghosts: The Devastating Impact of Enforced Disappearances in Pakistan* (2021).

<sup>37</sup> Law No. 92 of 1959, Social Insurance.



when women from these groups lodge complaints, the authorities frequently fail to act with due diligence to investigate, prosecute and punish perpetrators and/or provide remedies. [The State has] further treaty-based obligations to ensure that all women have access to education and information about their rights and the remedies that are available and how to gain access to them, and access to competent, gender-sensitive dispute resolution systems, as well as equal access to effective and timely remedies.”<sup>38</sup>

### 4.3 Identity and Survival Struggles

In a traditionally “patriarchal” society where gender roles dictate rather rigid and socially constructed molds, most women found themselves after the victim’s disappearance in conflict with their social identity that has led - and for many continues to lead - to a multifaceted and imposed survival struggle. Facing the economic responsibility for their families represented the most immediate and pressing challenge, especially since male domination in breadwinning has been both the norm and the theory in such traditional societies. Having relied in most women’s experiences solely on their male relatives to provide for their families, women found themselves in an unprecedented situation where they had to reconfigure their performance of traditionally male roles. The challenges of navigating the space of securing an income that would sustain their households were not only economic but also intertwined with various other social and contextual dimensions.

#### 4.3.1 Multiple Economic Burdens

All the women whose male relatives were the sole providers of their households reported that they had to assume his regular economic commitments, such as paying rent, food, and other living expenses, as well as new categories of expenses that were traditionally not his responsibility. Women often had to cover costs related to the search for and inquiries about the fate of their loved ones, including lawyers’ fees for the same purpose or to deal with property and inheritance claims. Several women reported that they were struggling to pay rent, which their male relative was previously not required to pay, as the family home had been confiscated without any legal procedure, compensation or alternative.

Several women also faced the additional burden of dealing with injuries or illnesses that they or other family members had sustained in relation to the conflict after their loved one disappeared, adding another layer of care-related costs not previously managed by the male relative. In some cases, women found themselves socially and financially responsible for the whole family of the disappeared person. This included the mother who had previously relied on her son’s financial support, and who was left as the sole provider for his wife and children, and the sister who was a university student partially or fully supported by her brother and was forced to drop out of university in order to sustain herself and her brother’s family, or a wife who had previously relied on her husband’s income to support his parents or siblings, a responsibility that now fell onto her.

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38 Committee on the Elimination of Discrimination against Women, General Recommendation No. 33 on women’s access to justice, CEDAW/C/GC/33, 3 August 2015, paras. 10 and 11.



The WGEID has observed how the suffering of families of the disappeared is compounded by the absence of legislation and national measures that guarantee programs for compensation or economic support to families of the disappeared, and how this violates a series of rights protected by international human rights instruments, including the right to health, education, social security, property, and family life. The WGEID specifically referred to the obligation of the State and the private sector to continue paying the missing person's salary and benefits to their families for the duration of the disappearance, and cited the Colombian Constitutional Court's 2010 ruling as an example of this obligation being implemented and as an example of good practice that should be emulated.<sup>39</sup>

### 4.3.2 Family Care Challenges

Traditionally, women in the family have to take care of their children, educate them, and maintain the social affairs of the family. Many women during the struggle for survival had to continue to perform these tasks to the best of their ability, as society expected of them even as they had to take on the traditional roles of men. Women who worked before their husbands disappeared had to work more hours and those who did not work before had to look for work. For them, there was no "luxury" of choice; some found themselves in jobs traditionally performed by men such as what is known in Syria as "daily workers". Other women who worked in sectors such as health and social welfare had to accept night shifts.

The time that women traditionally devoted to their family roles diminished. The physical and mental energy they had designated for these duties were being consumed. Often, women found themselves confronted by traditional social pressures that focused on how well they were fulfilling their traditional family role without offering them any practical solutions to the demands of assuming the traditional roles of men. The responsibility for any educational setbacks or socially deviant behavior of children tended to fall on women from the community's perspective. Furthermore, women were faced with critical and sometimes contradictory demands from society such as pressure for some to remarry and blame on others for getting married. Under these multiplying pressures, some women felt compelled to make life-changing choices that went against their own wishes and desired life paths, such as accepting remarriage, which required them to obtain a death certificate for their disappeared husbands.

### 4.3.3 Contradictory Gender Narratives

Paradoxically, women faced conflicting patterns of attitudes and pressures rooted in the stigmas and roles attached to their social identities throughout their struggle for survival. Many women faced resistance to supporting themselves financially from their parents-in-law or families, yet were also blamed when forced to work; some were forced to marry off their underage daughters. This imposition to marry off underage daughters was often justified by the social stereotype that "to marry off girls is to protect them and their families"; however,

<sup>39</sup> Human Rights Council, Working Group on Enforced or Involuntary Disappearance, Study on enforced or involuntary disappearances and economic, social and cultural rights, A/HRC/30/38/Add.5, 09 July 2015, paras. 24-25.

in most cases, women's acquiescence was a way to mitigate economic burdens and the ensuing social pressure it brought.

Some women faced a mixture of familial pressure stemming from security concerns, shirking their economic responsibilities to them, and various social stigmas. Some were forced into forms of isolation and "house arrest"<sup>40</sup> because their families feared that any visible presence or engagement in the work force or victim-support efforts would draw security attention and jeopardize the family. The stereotypical social role of women plays a crucial role in this anxiety; had they been male, their presence, work, and search efforts would not have raised the concern of the community and security forces, in the families' view. At the same time, no economic alternative was provided for these women, who faced what can only be described as familial blackmail. As the Committee on the Elimination of Discrimination against Women stressed, "The lives of women and men must be considered in a contextual way, and measures adopted towards a real transformation of opportunities, institutions and systems so that they are no longer grounded in historically determined male paradigms of power and life patterns."<sup>41</sup>

Women share in this struggle in any country where traditional "patriarchal" societies dominate. In Lebanon, affected women shared contrasting social experiences with regard to remarriage. Some faced pressure from their families and the society not to remarry, regardless of the reason behind their decision to do so. This pressure was often justified by the duty of the woman to remain faithful to her husband, or by men's reservedness toward marrying a woman in economic distress. In other cases, the women faced contradicting pressures to remarry, the most notable ones being economic hardship, additional family burden, in addition to social stigma attached to being a "widow", discourses of "concealing must-cover", and keeping a man in the household for the sake of the woman and her children.<sup>42</sup>

It is worth noting the double impact that some women survivors of arbitrary arrest and enforced disappearance suffer, despite most of the women featured in this paper not having had this experience. Women and girls generally constitute approximately 20% of arbitrary detention victims in Syria.<sup>43</sup> Due to the prevailing social order, many women survivors of detention face additional layers of stigma that place upon them the burden of carrying the stigma of the violations they suffered during their deprivation of liberty. Social stigma is perhaps most burdensome to bear especially when it intersects with ongoing enforced disappearances of a husband for instance. In addition to the social stigma of being perceived as "dishonoured" and questioning their "chastity" due to detention,<sup>44</sup> their vulnerability is further compounded due to the absence of the male figure, and for the same social reasons, increases their exposure to marginalization and, consequently, exploitation. Some women profiled in this research were arrested while searching for a disappeared person, and this experience itself subjected them to further social and security risks that forced them to make the decision to relocate.

40 The Independent International Commission of Inquiry on the Syrian Arab Republic published a research paper examining several case studies on this phenomenon and others: [The Gender Impact of Conflict in the Syrian Arab Republic on Women and Girls](#), 7 February 2023.

41 Committee on the Elimination of Discrimination Against Women, General recommendation No. 25: article 4, paragraph 1, of the Convention (temporary special measures), 2004, para. 10.

42 For more details and experiences, see: Christalla Yakinthou, *Living with the Shadows of the Past: The Impact of Disappearance on Wives of the Missing in Lebanon*, International Center for Transitional Justice (March 2015).

43 Human Rights Council, Report of the Independent International Commission of Inquiry on the Syrian Arab Republic, A/HRC/46/55, 11 March 2021.

44 For some experiences in this context, see, for example: Salam Zeidan, [Fatima is a survivor of detention and another victim of stigma](#), Women Now, January 15, 2021.

#### 4.4 Our Children Pay the Price

Faced with the priority of securing an economic resource, the vast majority of women have had their options reduced and have been forced to abandon their children's (boys and/or girls) educational path and send them to the labor market. In some cases, women had to make a choice between their children, deciding who will work and who will continue their studies. Several factors play a role in this decision, but the most important is economic, as preference is given to the one who has a better chance of quickly cashing in on their educational certificate at work. That is why most children left school at an early stage, so that the cost of their education could be given to those who were close to graduating. In most cases, these children engaged in heavy work, such as agriculture and crafts like blacksmithing, carpentry, construction, and carrying heavy loads. Such work greatly exceeds their physical development, making it dangerous to their health and physical well-being.

Prioritizing children's education based on gender - boys first then girls - was not a primary factor in women's decisions in this context, despite this pattern often prevailing in traditional "patriarchal" societies. Economic necessity out of pressing needs and the absence of legal and social support systems were evidently more pressing concerns for women.

Women affected by enforced disappearance in Nepal encountered similar situations where they could not send their children to school due to the financial hardship incurred by the absence of the primary breadwinner. Yet, the prioritization of educating male children prevailed in their decisions not to send girls to school, without necessarily inserting them into the labor market, and in many cases forced women in Nepal to endure double working hours, taking up strenuous jobs that were often incommensurate with their age, physical and health status.<sup>45</sup>

The early marriage of female children was suggested as a common phenomenon faced by many women affected by enforced disappearance in the prevailing legal and social systems. Most of the women who married off their underage daughters stated that this was their last resort to alleviate the aggravated economic burdens. It was clear that the decision to marry off daughters was most often supported - if not imposed - directly or indirectly by the family of the woman or of the disappeared male. Women were caught in a predicament of three options regarding their underage daughters who had dropped out of school due to the associated costs: keeping them at home and providing for their daily needs, involving them in the hardship - and physical and social risks - of the labor market, or marrying them off and transferring the responsibility of providing for them to another breadwinner - the husband. The women did not elaborate on the procedures of child marriage, and it is worth mentioning that the geographical location of the women within Syria, the nature of the controlling authority, and the applicable legal framework did not have a significant impact on the decision and application of marriage.

Prior to the promulgation of Law No. 4 of 2019 dated on 07/02/2019 amending the Personal Status Law in Syria, a girl's marriage was determined by reaching 17 years of age.<sup>46</sup> However, the law enabled the judge to authorize the marriage of a girl after completing the 13<sup>th</sup> year of age on the condition that he establishes the veracity of

45 For more details, see: Human Rights and Justice Centre (HRJC), [The Impact of Enforced Disappearance on Women in Nepal](#), 30 August 2023.

46 Law No. 59 of 1953 Personal Status Law, Article 16.

her claim of reaching puberty and her physical fitness, with the consent of the girl's Wali (guardian) if he was her father or grandfather.<sup>47</sup> Although the age of a girl's eligibility for marriage was raised to 18, and the age of accepting her claim of reaching puberty was raised to 15,<sup>48</sup> the judge's power to marry a girl at the age of 15 based on his theoretical estimate of her physical ability to bear marriage opens the door wide for judges to give their authorization frequently. For example, the percentage of underage girls' marriages in Damascus Courts during the month of January 2021 reached more than 9% of the total concluded marriage contracts.<sup>49</sup>

The majority of cases of marriage involving female children occurred in the years preceding the recent amendment to the Personal Status Law and were spread in different areas of Syria, not all of which are subject to the judicial system of the Syrian government. This context presented additional challenges, particularly in cases in which the marriage may have taken place outside the relevant competent court or through procedures not recognized by the Syrian government authorities. Even though the Syrian Criminal Code punishes the marriage of minors outside of a competent court, the circumstances faced by these women make it so that marriage of minors outside of court was not an unforeseen possibility, especially as the penalty for this practice was not sufficient to serve as a deterrent. Up until June 2018, the penalty was a fine no greater than 250 Syrian pounds<sup>50</sup>, but this was later amended to include imprisonment for six months and a fine of 100,000 Syrian pounds. Imprisonment is not applicable, and the fine amount is reduced if marriage was entered into with the consent of her guardian<sup>51</sup>. The women (and, by necessity, their daughters) were not aware of any available framework for recourse to the formal or quasi-formal justice system that could have provided them with meaningful remedies to prevent these violations, due to the fact that they "lack the social or legal capacity to make significant decisions about their lives in areas relating to their education, health and sexual and reproductive rights. They may be forced into marriage or subjected to other harmful practices and various forms of violence."<sup>52</sup>

In the Acholi region of Uganda, approximately 35% of households have experienced the disappearance of a household member at the hands of either the Ugandan government forces or non-State armed groups involved in the country's protracted armed conflict. Within the patterns of identity vs. survival conflict that women have experienced, forced child marriage has emerged as a strategy for coping with the destitution and economic hardship caused by the removal of a household's primary breadwinner. Notably, many of these experiences occurred within relatively traditional societies whose social patterns in many ways mirror those of the communities from which the women who participated in this research come, patterns underpinned by patriarchal gender norms that govern most aspects of household and community life.<sup>53</sup>

47 Law No. 59 of 1953 Personal Status Law, Article 18.

48 Law No. 4 of 2019 amending some articles of the Personal Status Law issued by Legislative Decree No. 59 of 1953 and its amendments.

49 Syrian Women for Democracy Gathering, [6% rate of underage marriage in the courts of Damascus and its countryside](#), September 18, 2022.

50 Law No. 148 of 1949 Penal Code, Article 469.

51 Law No. 24 of 2018 amending some articles of the Penal Code issued by Legislative Decree No. 148 dated 6/22/1949 related to concluding marriage contracts outside the competent courts, Article 1.

52 Committee on the Elimination of Discrimination against Women, General Recommendation No. 33 on women's access to justice, CEDAW/C/GC/33, 3 August 2015, para. 24.

53 For more details, see: Isis Women's International Cross Cultural Exchange and Feinstein International Center, *Making Gender-Just Remedy and Reparation Possible*, 2013, pp. 52-53.

## 4.5 Compelled to Certify Death

The death certificate is one of the greatest challenges faced by many women. The challenges are not limited to the procedures required to obtain it, but its psychological impact on women and their families. Women's feeling that they are forced to obtain a death certificate for the victim completely contradicts the assumption of life as one of the basic guidelines for searching for missing persons.<sup>54</sup> The absence of any official mechanisms or measures supporting women and their families in the search processes and in reaching a final certainty regarding the victims' fate and whereabouts forced women to bear the burden of deciding to consider the victim deceased under the pressure of family, society and the struggle for survival.

### 4.5.1 Survival at the Cost of Death

Several women experienced real and combined practical obstacles that made a death certificate for their missing loved one an imperative solution to securing basic necessities of life that should not require a woman and her family to make a life-altering decision such as legally declaring a forcibly disappeared person dead against their will and informed choice. In some instances, women found themselves in situations where they could only secure food for their children by proving to humanitarian actors that their husband or male breadwinner was dead. In some cases, particularly for displaced women, they found themselves stranded in certain areas in Syria where resources were only available from aid provided by organizations or local authorities. Unable to move onwards due to access restrictions and the dangers of moving in the context of the ongoing conflict, these women saw no other option for survival than to seek assistance, which was conditioned upon them proving their status as a "widow," for instance. Other women had similar experiences when seeking orphan sponsorship for their children, which would secure a small but regular source of income and allow them to at least send their children to school. Still other women faced similar requirements—death certificate in hand—from local authorities responsible for supporting orphans and "widows."

In the absence of legal and administrative measures that take into account the specificity of the situation of the families of disappeared persons, women often have no choice but to resign themselves to the only status that is socially recognized for them, that of "widow," or navigate a situation of almost complete destitution despite having the same family situation as women whose husbands have been declared martyrs and thus have the support necessary to survive the cost of living expenses that women affected by enforced disappearances struggle to meet. However, any measure to support families and provide reparations "should not be made conditional on the requirement that the relatives of the disappeared person produce a death certificate [and that] as a general principle, no victim of enforced disappearance shall be presumed dead over the objections of the family."<sup>55</sup>

It is worth recalling that "[the State has] an obligation not to cause discrimination against women through acts or omissions; [it is] further obliged to react actively against discrimination against women, regardless of whether such acts or omissions are perpetrated by the State or by private actors."<sup>56</sup> These obligations do not

54 Committee on Enforced Disappearances, Guidelines for the Search for Disappeared Persons, CED/C/7, 8 May 2019, Principle 1.

55 Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/22/45, 28 January 2013, para. 50.

56 Committee on the Elimination of Discrimination against Women, General Recommendation No. 28 on basic obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 16 December 2010, para. 10.



cease in periods of armed conflict, and States must be mindful of the particularity of this situation and its far-reaching implications for the realization and enjoyment of women's equal rights and freedoms.<sup>57</sup> Accordingly, the State's primary failure to enforce laws or measures to prevent discrimination in situations lived by women has been the main cause of their suffering and discriminatory deprivations of the enjoyment of their rights.



In Mexico, disappearances also have devastating financial consequences for families of the victims, with a particular impact on vulnerable groups such as children and families living in poverty. The vast majority of people subjected to enforced disappearance documented by Human Rights Watch were working-class men, who were often the sole providers for families with multiple children. In their absence, their spouses or partners have had to take urgent measures to cope with the loss of income and provide for their families. These hardships are compounded by Mexico's social welfare system, in which access to certain services is contingent on the employment of one of the household members. As a result, disappearances can lead to the suspension of access to social benefits such as health care and childcare. In order to maintain access to these vital services, relatives have had to embark on a costly and lengthy bureaucratic process to have the disappeared person declared absent or dead, which adds to their distress.<sup>58</sup>

57 *Ibid.* para. 11.

58 Human Rights Watch, [Mexico's Disappeared: The Enduring Cost of a Crisis Ignored](#), 20 February 2013.

#### 4.5.2 Where to Declare Death?

The place of residence or displacement of women played a significant role in shaping the experience of ordeal with the required death certificate. With the requirement of obtaining security approval,<sup>59</sup> the ordeal of the families of the missing persons transformed from a bureaucracy that can be overcome by hiring an attorney or “broker”, as known, into submission to the discretion of the security agencies and what this entails of unpredictable security risks, primarily detention, in addition to extortion in its various forms. The families of the missing persons were no longer able to initiate the necessary legal procedures to prove the state of absence or loss in accordance with Article 205 of the Personal Status Law until they obtain this security approval, which usually takes long months if the family manages to obtain it.

Proving the state of absence or loss of a person and/or considering him deceased is a challenge for women at multiple levels. The first level constitutes a security risk and multifaceted extortion of the women who are forced to resort to this procedure in the areas of control of the Syrian government. The second level relates to the residents in the areas that are out of the control of the Syrian government who do not have access to the relevant official departments and are exposed to greater security risks if they want and manage to access those departments, and they are also vulnerable to many forms of fraud, extortion, and financial costs if they manage to utilize legal services through attorneys, for instance. As for the third level, it relates to the Syrians who left Syria and reside in other countries. They share many challenges with other categories; in addition to the problem that they left the country with what can be considered an “illegal” manner, which makes their access to any legal services almost impossible. This predicament in conjunction with the inability of many of them to benefit from the assumed Syrian consular services in the countries of their residence for legal reasons related to their asylum files, in addition to the security risks and financial extortion in those embassies and/or consulates. In addition, the Syrian women who have no alternative but to resort to these services always take into account the security risks that their family members may face in the areas controlled by the Syrian government.

Some women in some areas under the control of non-State armed groups outside Syrian government control have reportedly been able to follow procedures resulting in a “death declaration” from local authorities of those groups. Other women in areas under other groups’ control have followed a procedure to document the disappearance with the local authority in an official note with two witness statements, validated by a local attorney general. Women are using these documents for strictly humanitarian purposes, to enable them to demonstrate a status that qualifies them for services reserved for orphans and/or widows. Crucially, these documents do not give the women access to rights and services from the official Syrian authorities. However, obtaining these documents is not straightforward. As some women explained, it requires two witnesses who can confirm the detailed account of the disappearance given by the woman in order for the disappearance notice to be registered and validated, or who can testify before the competent authority after seeing the body in order for the “death declaration” to be issued. The requirements varied from case to case, including one woman who obtained a “death declaration” based on the presence of the disappeared husband’s father and his son. The lack of knowledge that compounded their immediate anguish after the disappearance clearly persists as they navigate its longer-term implications. The psychological impact expressed by women who have gone through this experience is particularly striking.

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59 See Section II of this paper.

### 4.5.3 Declaration of Death Is Not Enough

Despite the difficult decision of declaring the disappearance as death, in most cases, it was not sufficient for women and was not enough to facilitate them to attain a minimum level of decent living and to access some of their rights which would enable them to do so. Women faced multilevel and multi-faceted security, administrative, legislative and social obstacles.

Women's lives are not limited to securing humanitarian aid and sponsoring orphans; however, they became fully responsible for their families' lives and their administrative and legal procedures related to personal status, education, health, moving, business and financial transactions, among others. All women whose cases included financial concerns or those related to inheritance and property suffered, even after some of them had made the difficult decision of declaring the victim dead. In addition to the complications of accessing any entitlements of this kind, the family and social frameworks played an additional role in exacerbating the complications. Some women faced absolute refusal from the victim's husband's family to issue a death certificate, while the family put the woman under high social and financial pressure. Some women were forced to be displaced, not due to the security concerns, but due to the family's resentment of the financial burdens that she and her children added to the family. After they were displaced to areas outside the control of the Syrian government, they lost their ways to obtain the death certificate. Some women who had supporting documents, such as a statement from the hospital reporting the victim's death, which were left in the family house, they faced refusals to provide them with these papers which could have facilitated the process of issuing "death declaration" in some areas.

Some women who decided to declare the victim dead faced another two-fold dilemma: the first is the social norms that prohibit women from moving and taking the required procedures; and the second is the fear the family members responsible, as per the same norms, for following up these procedures, from the reaction of the official authorities when the family members got involved in the procedures of issuing the death certificate. Some women considered this contradiction a price they had to pay, while others understood it, especially those whose direct family members or the victim's family were already in security hazard and some of them were actually arrested during doing these procedures. In all cases, it is imperative to remember that all forms of deprivation of liberty that target women because they are women are considered as violence against them, including deprivation of liberty within the family, the domestic unit, or in the framework of any other personal relationships; and accordingly, the duty of exercising due diligence to prevent, investigate and punish the perpetrators is binding.<sup>60</sup>

More than 65,000 persons are considered to have been subject to enforced disappearance in Sri Lanka as a result of the armed conflict between the Sri Lankan government and the Liberation Tigers of Tamil (LTTE). Traditionally in Tamil culture, men were assigned the role of breadwinner, while women were expected to care for their families and raise their children. Therefore, when a Tamil man was subject to enforced disappearance, the females were expected -despite societal disapproval- to assume an income generating role. For many of these women this also meant facing destitution. In many instances, family assets such as houses, bank accounts etc. were in the name of such a disappeared male. In order to access these and also potential pension entitlements,

<sup>60</sup> Committee on the Elimination of Discrimination against Women, General Recommendation No. 28 on basic obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women, CEDAW/C/GC/28, 16 December 2010, para. 19.



female spouses of the disappeared were required to obtain a death certificate for their husbands, a process that was often followed by ostracism as having “given up” on their husbands. Many were forced to continue living with the family of their disappeared husband, who often resisted declaring his official death as they opposed the widow’s remarriage and treated her as a financial burden.<sup>61</sup>

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61 The University of Edinburgh, [The women left behind. Long-term effects of enforced disappearances on Tamil women in Sri Lanka](#), Global Justice Blog, 04 June 2021.

#### 4.6 “Caesar” Photos: Burdens of Truth

The history of enforced disappearance has perhaps witnessed no experience more harrowing than the one in which families learnt of the victims’ fate through photographs such as those that emerged as the “Caesar photos”.<sup>62</sup> It is hard to fathom the psychological impact on women who had lived through years of anxiety, searching, fear and hope, only to learn of the victims’ fates as martyrs, and the reality of the crimes committed against them, while the women themselves grappled and suffered to piece together any scraps of information about them. The impact of that experience is perhaps not comparable with any of the other predictable and measurable impacts of enforced disappearance.

Yet, beyond the psychological impact of this “truth” on women, and despite the natural human instinct to respect the humanity and privacy of the victims and their families, the women who went through this experience have found themselves obliged to use those photographs, and the “truth” contained in them, as a form of documentation either to access the most basic of their rights, or to engage in a rights-based struggle imposed upon them.



62 For more, see: Human Rights Watch, [If Dead Could Speak: Mass Deaths and Torture in Syria’s Detention Facilities](#), December 16, 2015.

#### 4.6.1 Unofficial Document

With all official and quasi-official channels failing to enable women to face the effects of their disappeared loved ones, “Caesar photos” became for some of these women documentation, which they tried to establish in a substitute for an absence or death certificate, or to obtain them in order to fulfill the legal and administrative requirements and conditions imposed on them, even for the purpose of obtaining in-kind assistance that allows them to secure a minimum, temporary, and limited amount of the requirements for their daily lives and for their families. Many women were unable to find an alternative other than to expose the photograph of their loved one to official bodies, local authorities, or even humanitarian organizations in an attempt to convince those parties that they fulfilled the required “conditions” to be eligible for a death certificate, missing person’s report, or orphan’s sponsorship. However, even in these conditions of injustice, none of the above entities saw this evidence as sufficient to substitute for the required documents, which must be official. Moreover, in some cases exposing the photograph of the disappeared person posed a potential risk to women, especially when interacting with Syrian authorities, who consider “Caesar photos” to be ample evidence against the victim’s family. One of the individuals whose efforts to obtain official documents failed to succeed, upon identifying her loved one in the “Caesar photos,” showed a photograph of the victim to a government official in a final desperate attempt to convince him that her loved one was indeed dead. In what the woman regarded as an exceptional move, the official whispered to her not to repeat this action, as it undoubtedly placed her in grave danger.

#### 4.6.2 Partial Truth

In line with the compulsion to acknowledge the victim’s demise, the photographs represented for many women the ‘truth’ they had spent years searching for. However, the right to truth is only realized when it ensures the absence of family anguish and suffering that amount to torture due to the lack of knowledge about the victim’s fate and whereabouts.<sup>63</sup> The right to know the truth about the fate and whereabouts of the victim includes, when the disappeared person is found dead, the right of the family to have their loved ones’ remains returned to them, and to dispose of those remains in accordance with their customs, religion or culture.<sup>64</sup> The WGEID has observed the phenomenon of official death certificates issued for victims of enforced disappearance without consulting their families and without providing them with information as to the cause, place and date of death, and without their remains being handed over.<sup>65</sup> The WGEID therefore adapted its working methods to consider no case of enforced disappearance as closed and clarified unless this determination has been made with the free and informed consent of the family.<sup>66</sup> The WGEID had perhaps not foreseen that the photographs of the victims could one day serve as a substitute for a death certificate or declaration of absence, but the essential point remains that the family’s anguish and suffering continues in the absence of determination of the end of the enforced disappearance and the ‘truth’, partial as it may be, goes unrecognized.

63 Working Group on Enforced or Involuntary Disappearance (WGEID), General Comment on the Right to the Truth in Relation to Enforced Disappearance, para. 4, in WGEID, Report of the Working Group on Enforced or Involuntary Disappearances, UN Doc. A/HRC/16/48, 26 January 2011.

64 Ibid. para. 6

65 For more, see: Gabriella Citroni, The Pitfalls of Regulating the Legal Status of Disappeared Persons Through Declaration of Death, *Journal of International Criminal Justice*, 12 (2014), 787-803.

66 Human Rights Council, Methods of work of the Working Group on Enforced or Involuntary Disappearances, A/HRC/WGEID/102/2, 2 May 2014, para. 27.

As such, women's compelled acknowledgement of the victims' fate through the "Caesar photos", due to the failure of the legal and social framework to enforce their rights, cannot be taken as their "informed" decision that the enforced disappearance has ended or that the truth is now complete and unassailable, for the circumstances they are forced to operate within are inherently coercive and antithetical to any notion of informed consent.

## 4.7 Impact of Displacement

The vast majority of the women had experienced displacement since the disappearance of their relative, and this took various forms including family relocation, internal displacement and refuge. Some women had been displaced multiple times and, in some cases, reasons for displacement had accumulated.

### 4.7.1 Fear

The disappearance of their relative had in many cases triggered women's and their families' fears that this was the first move in a process targeting them and their families. Some women had anticipated this because their relative (or another family member) had been involved in political or revolutionary activities; they were aware of the Syrian authorities' policy of repression and intimidation. In other cases, the relative had no known political or revolutionary activities; nonetheless, the women realized that repression was not necessarily dependent on someone's known rationale or activities. The decision to move in these cases was made by the women themselves or the extended family and sometimes entire extended families had been displaced. Displacement invariably involved moving to areas beyond the control of the Syrian government, with the associated dangers and costs

Since the military coup in Burma/Myanmar in February 2021, violence and human rights abuses have escalated, with the State Administration Council (SAC)—the junta's central governing body—as the primary perpetrator. Enforced disappearance— particularly in rural areas of southeastern Myanmar—is used as a systematic policy to suppress political opponents and human rights activists, and to terrorize populations into displacement. As the daughter of a human rights defender subjected to enforced disappearance in February 2022 explained, "I can't go back to my house because they burned it down. We are worried about security. We have to move from place to place. We cannot stay in one place for long as the junta members spread their forces everywhere looking for us. Therefore, we have no permanent place to stay. I heard that the SAC tried to search for my father's family members. They showed our pictures to people and asked about our whereabouts."<sup>67</sup>

Forced displacement on the basis of fear was accompanied by explicit practices by authorities that did not give women any opportunity to even look for mechanisms or measures that could provide reasonable protection. Several women reported their homes were confiscated following the arrest and disappearance of the victim. None of them had any information as to what legal basis or procedures were followed to justify deciding and carrying out the confiscation. Some were evicted immediately after the arrest, while others' homes were

67 Karen Human Rights Group, *In the Dark: The crime of enforced disappearance and its impact on the rural communities of Southeast Burma since the 2021 coup*, November 2023, pp.44-45.



appropriated while they were in hiding at their families' houses or houses of their neighbours, after the victim was arrested. None of the women dared to officially seek redress. Some women were displaced after the victim's disappearance because of the increase in hostilities and their residential locations coming under shelling or intrusions by military forces; some had their homes bombed and were injured or had family members injured.

#### 4.7.2 Community

Women are left with no safe spaces, and their displacement journey is characterized by repeated experiences of escape and displacement from one region to another. Many end up in IDP camps in areas where they lack any family ties that could partially compensate for their emotional, community and economic losses. Furthermore, some women suffer from a change in the social environment and a disparity in the level of patriarchal norms in their new communities. These women do not claim that, before displacement, they were living in communities with completely contrasting social norms to their new environments. However, they suffer because of the variation in the level of patriarchal norms, where their new environment is more conservative by nature, coupled with stereotypes and prejudices towards women living without a husband, for whatever reason. These women are subjected to enormous internal and external societal pressures. They have to consider all these patriarchal stereotypes and prejudices in society while, at the same time, bearing the pressure, surveillance and fear of familial judgments about "reputation" and the stigma associated with their situation.



“The wives of the disappeared also face unique social challenges connected to the personal, familial and societal pressures to conform to the traditional roles of widow or wife. Women in Kashmir have coined the term “half-widows” to capture their plight. In some countries, bodily markings and rituals used to signify the status of marriage and widowhood place additional pressure on wives of the disappeared to choose a role. In Tamil culture of Sri Lanka, married women are expected to wear Thali (a sacred chain similar to a engagement ring) and Kungumappottu (a red mark on the forehead). Young unmarried women, divorced women, and widows are not allowed to wear these symbols; when they do so, the symbols are considered inauspicious. As a result, wives of the disappeared do not enjoy the same privileges as their married peers, including social gestures”, such as being given priority at public functions and social events.<sup>68</sup>

These patterns reflect structural discrimination in the society and hence the State’s failure to fulfill its obligations under CEDAW to dismantle the root causes of gender inequality in patriarchal cultures - not only by addressing the consequences of discrimination, but by taking all appropriate measures to modify the social and cultural patterns of conduct of women and men.<sup>69</sup> The State is obliged to do more than enacting laws and regulations; it must also tackle the “[t]raditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse [...]. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms.”.<sup>70</sup>

### 4.7.3 Opportunities

Although most women shared an experience of reduced or no opportunities for empowerment and improvements in their academic, professional, or financial standing during displacement, some accounts could be described as positive in comparison to the general negative trend and cast light on important factors influencing the presence and conditions of opportunities.

Those who had the opportunity to complete vocational and high education and/or had professional experience before the disappearance of the victim reported being able to access opportunities within the humanitarian or civil society sectors. While these opportunities were sometimes not sustainable, involvement in formal organizational settings, even for short periods, added to their expertise and made them credible candidates in the eyes of those organizations when opportunities arose. A few women were able to resume or complete high education while displaced, although accounts suggest that these individuals, again, were generally women who were without young children, underscoring the additional responsibilities expected of women, particularly mothers, that hinders them from enjoying their human rights on an equal basis with others.

68 Polly Dewhirst and Amrita Kapur, [The Disappeared and Invisible: Revealing the Enduring Impact of Enforced Disappearance on Women](#), International Center for Transitional Justice, March 2015, p. 9.

69 Convention on the Elimination of All Forms of Discrimination against Women (1979), Article 5(a).

70 Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19: Violence against women, 1992, para. 11.

Many women who have lost their main breadwinner in Lebanon have missed out on their educational and economic development opportunities because they had to prioritize the children in the household, providing the financial support required for their learning ahead of their own. The chances for these development opportunities were limited and conditional in the case of women who were affiliated with political parties or religious references, as these references would grant them, alongside their children, educational and/or university fee waivers. Therefore, it is a privilege that a limited number of women enjoyed to the exclusion of a majority of women who were neither truly affiliated with such references or who were not treated as such.<sup>71</sup>

In some cases, displacement itself has been an opportunity for women, a consequence of a combination of social factors and sometimes the ability to access education or experience in the host countries. Women who moved to comparative liberal settings, including some neighbouring countries, reported that the relatively more 'open' or less controlling environment had enabled them to negotiate the tension between their traditional roles in caring for their families and their ability to interact with the wider world and gain an education or income opportunities. A less severe level of social patriarchy and gender discrimination has contributed to a more advanced level of empowerment for women compared to those who remained or moved into traditional patriarchal social environments where "gender stereotypes are reinforced through schooling and it maintains the gender order of society, expressed through the reproduction of the female/male and subordination/domination hierarchies and the reproductive/productive and private/public dichotomies."<sup>72</sup> It is worth noting that some women enrolled more rapidly in advocacy for the rights of victims/survivors and their families; reasserting that "[w]hen girls and women lack access to high-quality education, they ultimately face major difficulties, including lack of personal autonomy and choices, including [...] lack of power-sharing and participation on an equal basis with boys and men in both the private and public domains."<sup>73</sup>

#### 4.8 Support and Services: Reparation at a Cost

The support and services received by women during all stages of their experience of the effects of enforced disappearances were limited to conditional and sporadic material and financial relief, as well as irregular psychological support services. None of the women received any kind of free legal service, either in their original places of residence or their various places of displacement. The most common answer was, "I don't know anything about these matters." Paradoxically, most of the women had been contacted on multiple occasions by various organizations to register their information, but only a few of the women were adequately informed about the reasons for using this information and its intended purposes. In all cases, the women were not offered any direct support or referral services, with the exception of certain cases that received in-kind services such as food baskets or financial assistance. A limited number of women were aware of some psychological support activities and some of them reported that they had participated in them sporadically. These experiences do not

71 For more, see: Christalla Yakinthou, *Living with the Shadows of the Past: The Impact of Disappearance on Wives of the Missing in Lebanon*, International Center for Transitional Justice (March 2015).

72 Committee on the Elimination of Discrimination against Women, General Recommendation No. 36 (2017) on the right of girls and women to education, CEDAW/C/GC/36, 27 November 2017, para. 16.

73 Ibid. para. 28.



necessarily imply that no legal or administrative services are being supplied by several organizations in various regions of Syria, but the main standard in the experiences of these women is that information about these services was not accessible to them and that opportunities to access them were not available, even though these women are considered among the most vulnerable groups due to the complex challenges and dangers they have faced for many years.

Undoubtedly, the State bears primary responsibility for implementing effective administrative and legal measures that support and empower women in searching for the victim and accessing the necessary services so as not to exacerbate the impact of enforced disappearance on them. One of the most important forms of exercising this responsibility is the State's duty regarding the right to truth and the State's "obligation to provide the necessary protection and assistance to victims, witnesses and other interested persons".<sup>74</sup> Experience has shown that women's fear of repression by the authorities is a primary reason for their reluctance to search for the victim and resort to any formal support or service measures and, in most cases, to remain displaced. Accordingly, the implementation by the Syrian authorities of their obligations to provide protection and assistance would have spared women many levels and stages of suffering as a result of enforced disappearance, which in most cases the authorities themselves are responsible for.

"The State [...] should take steps, including the amendment of legislation, to ensure that all relatives of disappeared people have access to social benefits and other measures of social support irrespective of where they live. Such legislation should be adopted on the State level in order to avoid the continuation of the current situation where there exists discrimination in access to and levels of social benefits."<sup>75</sup>

In the absence of such measures at the official and societal levels, a large percentage of women engaged in the experience of obtaining financial resources to pay for the costs of legal and administrative services by selling property and going into debt, in addition to being forced to work beyond their capacity.<sup>76</sup> The sums that women were forced to pay were not small, especially when compared to their economic standing and its exacerbation due to the absence of sole source of income and relocation. Some women were forced to sell land and other assets that they owned, and a small number of them who could not dispose of the property due to legal and administrative procedures were contained by their families or their husband's families and did dispose of such property. Some women fell into a spiral of debt, again and again, to pay for the procedural costs on one hand, and the entitlements of accumulated debts on the other hand. Paying attorney fees and requests of "brokers" and financial "exploiters" were common needs among these women, either to obtain information about the victim, or to settle legal and administrative transactions related to credentials and other entitlements. Some women were unable to obtain proof of identity for their children and some of them were in dire need of renewing the validity of the documents. In all cases, it was not possible without resorting to these paid services. Paradoxically, many women needed these documents and bore the exorbitant cost to respond to the requirements of some actors that provide relief or care, but require specific legal documents, such as a birth certificate, death certificate, marriage certificate, family record book, etc.

74 Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/16/48, 26 January 2011, para. 39 (General Comment on the Right to the Truth in Relation to Enforced Disappearance, p. 17).

75 Human Rights Council, Report of the Working Group on Enforced or Involuntary Disappearances, A/HRC/16/48/Add/1, 28 December 2010, para. 40.

76 See Section 4.3 above.



In 2019, it was estimated that 21% of children five years or younger in Northwest Syria are not registered with a family record book and do not have any other form of documentation such as a birth certificate or birth notification to prove their existence. In essence, these children are “invisible on paper”. If children are not documented, then they are cut off from other rights including access to education; health care; travel documents; shelter, land and property; job opportunities; and potentially their citizenship<sup>77</sup>

#### 4.9 Stigmatized Category: “Terrorists” or “Shabiha”

The experiences of some women have highlighted the need to emphasize a particular category of victims of enforced disappearances and the special effects that their disappearance has on women, namely the persons who used to work with the security and military apparatuses of the State as official employees. These were arrested and disappeared by the Syrian authorities, sometimes for acknowledged reasons, such as accusations of supporting the rebels, smuggling money to armed factions, or planning to defect, and sometimes because their relatives were “implicated” in similar actions. Women in this category have faced stigma and negative reactions on all levels. From the perspective of the Syrian authorities, they are the families of terrorists and are therefore vulnerable to immediate and continuous reprisals and persecution after the disappearance of their family member. They are also officially deprived of any privileges enjoyed by the families of other persons in the same category but who are not similarly accused, such as continued receipt of the monthly salary.

For these women, the experience of trying to find the victim was restricted and dangerous. In addition to the initial accusation made against them by the official authorities of supporting terrorism, no one dared to help them to ask questions or search, not even those with influence, “wasta”, or exploiters. The accusation of defection or terrorism was enough to deter everyone from establishing any contact at all with the women. In some cases, even their relatives refused to do so, and some women were forced by their relatives to refrain from taking any action to search for the victim for fear of the authorities’ reaction towards the family members.

On the social level, these women and the disappeared victims were usually perceived as “supporters of the regime” and “shabiha”. Consequently, the circles of possible social support diminished due to this stigma, and its impact continued for some women even after moving to areas outside the control of the Syrian government. It affected not only how society treated them but also their access to various services. In reviewing the financial burdens that these women bore in order to obtain information about the victims or official documents, we find that the costs were much higher than what women in other situations had to pay. This is due to the specific situation of the victims and the margin available for influential or “brokering” persons exploiting them, as long as the area of search and intervention remains more closely associated with the security services due to the nature of the victims’ work.

77 Marika Sosnowski and Noor Hamadeh, [“The Right to Have Rights”: Legal Identity Documentation in the Syrian Civil War](#), German Institute for Global and Area Studies (2021), p.4, citing NRC, *Lost Identity: Challenges Relating to legal Identification and Civil Documentation on the North-West of the Syrian Arab Republic*, December 2019.

## 5. Independent Institution for Missing Persons in Syria

On 29 June 2023, the United Nations General Assembly adopted a resolution establishing the Independent Institution for Missing Persons in the Syrian Arab Republic (IIMP),<sup>78</sup> and on December 1, 2023, United Nations Secretary-General issued his report on the implementation of that resolution, including the IIMP's terms of reference.<sup>79</sup>



### 5.1 Achievement for The Victims and Families

The IIMP is unique in the context of the impact of enforced disappearance on women, in that the discussions surrounding it are founded on the basis that, in terms of its substance, form, and journey to establishment, the institution is the product of the struggle by victims and families of victims of enforced disappearance in Syria, with notable leadership from women's groups.<sup>80</sup> As the Secretary-General highlighted, "the advocacy conducted by victims, survivors and families, including through Syrian family associations and civil society organizations, played a significant role in the establishment of the Independent Institution. This impetus accounts for the resolution's focus on ensuring that they participate and are consulted in the development of the terms of

78 United Nations General Assembly, Independent Institution for Missing Persons in the Syrian Arab Republic, resolution adopted by the General Assembly on 29 June 2023, A/RES/77/301.

79 United Nations General Assembly, Implementation of the resolution on the establishment of the Independent Institution on Missing Persons in the Syrian Arab Republic: Report of the Secretary-General, A/78/627, 1 December 2023.

80 To view the experience of Victims and Families Associations, please visit the [Caesar Families Association website](https://www.caesarfamilies.org).

reference and the work of the Independent Institution.”<sup>81</sup> The specific nature of the IIMP establishes the centrality of the role of victims and families in shaping policies and approaches to the issue of enforced disappearance at the international level.

For the first time in the history of addressing the issue of missing persons—of whom those subjected to enforced disappearance in Syria constitute the vast majority—victims and families have successfully established an international mechanism with two essential mandates, the importance of neither of which can be separated from the other,<sup>82</sup> as the experiences of women in this paper demonstrate. The IIMP has been tasked with determining the fate and whereabouts of all missing persons in Syria and with providing comprehensive support to survivors and families of the missing.<sup>83</sup> The Secretary-General has explained that this support includes psychosocial, legal, and practical assistance to families, as well as support to families in need of documentation that can facilitate the improved enjoyment of other relevant rights.<sup>84</sup>

## 5.2 Rights-based Approach

The analysis of the experiences of women affected by enforced disappearance in Syria shows that it is crucial for the IIMP to play a central role in shaping a response that is based on rights, not only on needs. The absence of the enjoyment of rights for women has unquestionably contributed to their needs; thus, providing temporary services as a response to these needs is a palliative treatment that fails to fulfil their rights and empower them to fully participate on equal footing with other members of society. Also, a needs-based response might contradict the victim-centred approach referred to in the Resolution establishing the IIMP and in its Terms of Reference.<sup>85</sup> The victim-centred approach should not be understood as simply taking into account victims’ needs and involving them in the identification of them, but rather as a holistic approach ensuring the effective participation of victims in the policies, measures and practices that concern them, which can only be achieved by progressively empowering them to enjoy their rights that will enable them to effectively play this role. Women’s experiences demonstrated how their appropriation of the response to needs has been a fundamental factor in making the coping mechanisms sustainable despite the deprivation they suffered of their other rights. A response based solely on needs may unintentionally rather than empowering create “competition”. For instance, the provision of financial assistance to some women merely covered their basic needs but did not guarantee their enjoyment of the right to privacy and family life, for example.

The exercise of the mandate of the IIMP with regard to support should focus to a great extent on enabling women affected by enforced disappearance to enjoy their rights and freedoms protected by international instruments. One of the most effective ways to achieve this is to share with them informed knowledge about those rights and freedoms, their core issues, and the IIMP and the expected role for them in it. After gaining awareness, they must be enabled to make a decision to participate in the collective work of victims and family

81 United Nations General Assembly, Implementation of the resolution on the establishment of the Independent Institution on Missing Persons in the Syrian Arab Republic: Report of the Secretary-General, A/78/627, 1 December 2023, para. 6.

82 Ibid. p13, para 24.

83 United Nations General Assembly, Independent Institution for Missing Persons in the Syrian Arab Republic, resolution adopted by the General Assembly on 29 June 2023, A/RES/77/301, para 2.

84 United Nations General Assembly, Implementation of the resolution establishing the Independent Institution for Missing Persons in the Syrian Arab Republic: Report of the Secretary General, A/78/627, 1 December 2023, p 14, paras 25(f-g).

85 Ibid. paras. 4 and 12.



associations. This naturally requires the IIMP and other concerned stakeholders to work to achieve structural changes in dealing with women affected by enforced disappearance, including administrative and legal measures and procedures, and to strengthen judicial and procedural provisions that deter practices that promote social stigmatization and may result therefrom, which prevent women from enjoying the right to participate in public life, work, education, movement, etc. In addition, the referral system for existing services provided by concerned stakeholders<sup>86</sup> must ensure the availability of sustainability standards and gradual legal empowerment during activities of such supporting institutions.

### 5.3 Self-Empowerment-Based Engagement

Undoubtedly, the IIMP will face significant challenges on all levels, most notably, reaching out to families affected by enforced disappearances, as they are the main stakeholders. The IIMP faces obstacles in terms of field access, large numbers, security risks that limit the willingness to communicate with the IIMP and others, the geographical distribution of families and their presence in poor living and economic conditions, among other factors. It is essential that women interact with the IIMP as a historic opportunity to establish - at the very least - an international process leading to ending their suffering. To ensure that women are not simply sources of information in light of these challenges, it is important to dedicate efforts towards empowering them cognitively, practically, and in terms of skills.

Associations of Victims and Families play a pivotal role at this stage, particularly through cooperating with other active parties in civil society organizations (CSOs) and other nongovernmental organizations (NGOs) in order to intensify and coordinate efforts towards outreach and engagement with these women, dedicating sufficient resources to enable them. Women shall be empowered to prepare themselves for effective engagement with the IIMP so they can assert their agency over their own rights and issues, rendering them an active source in shaping the policies and interventions of the IIMP. Furthermore, associations and CSOs must work to increase inclusivity in engaging women affected by enforced disappearances so that they are also given the opportunity to join efforts of associations and existing organizations or organize themselves into local initiatives like other associations. It should not be assumed that creating family associations must adhere to high institutional standards and that each association must evolve into an organized institutional practice. It is sufficient that a group of women gather around their shared cause so that empowerment specifically in this regard can begin, giving them the opportunity to express themselves and engage as women affected by enforced disappearances rather than as members of an organized institutional entity. These women may establish outreach and support networks for other women and contribute to increasing their awareness and empowering them. As inclusivity increases in outreach and participation within the IIMP's areas of expertise, the representation of victims and families becomes stronger, recognizing them as the main interested persons.

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86 Ibid. p14, para 25 (c).





Women have played pivotal roles in addressing the issue of enforced disappearances in numerous contexts and settings around the world.

#### Argentina

During the military dictatorship in Argentina (1976-1983), known as the “Dirty War,” thousands of individuals, including women and children, were forcibly disappeared. The “Mothers of the Plaza de Mayo” and “Grandmothers of the Plaza de Mayo” emerged as prominent advocacy groups, composed of women whose children had been disappeared. They organized weekly marches in Plaza de Mayo in Buenos Aires to demand information about their missing relatives and raise awareness about human rights violations. Their activism played a crucial role in uncovering the truth about the disappearances and holding perpetrators accountable.

#### Mexico

In Mexico, where enforced disappearance remains a grave human rights concern, organizations such as the Movement of Missing Persons in Mexico include numerous women who have lost family members to disappearance. These women organize protests, engage in advocacy campaigns, and participate in collective actions to demand justice, accountability, and the search for their loved ones. They also provide support to other families affected

by disappearances and work to raise awareness about the issue at national and international levels.

#### Sri Lanka

During and after the civil war in Sri Lanka, enforced disappearances were widespread, affecting thousands of families, including many women whose husbands, sons, and brothers were disappeared. Women's organizations such as the Association for War Affected Women (AWAW) played a critical role in advocating for the rights of the families of the disappeared. They organized protests, lobbied government officials, and conducted awareness-raising activities to demand truth, justice, and reparations for the victims of enforced disappearances.

#### Colombia

In Colombia, enforced disappearance has been used as a tactic by various armed groups, including militias, paramilitaries, and government forces. Women in Colombia, such as members of the "Madres de Soacha," have been at the forefront of advocating for justice for the victims of enforced disappearances. The Madres de Soacha are mothers who lost their children to extrajudicial killings, which often involved disappearances. They have mobilized to demand investigations, prosecutions, and reparations for the victims and their families.<sup>87</sup>

## 5.4 Mitigating the Enduring Impact

As discussed earlier in this paper, in theory, legal and procedural measures may exist in different parts of Syria to address the needs of women arising from enforced disappearance, such as laws on the missing and absent persons, or declarations of presumed death and certificates of disappearance. However, women's experiences show that, in practice, these measures have not provided them with any relief from the impact of the disappearance, as they continue to face its ongoing and multiplying effects to this day, as they shared their experiences. Consistent with women's experiences in many other contexts, including as documented in earlier sections of this report, women affected by enforced disappearance have rarely had genuine measures of relief, and for some, their suffering has continued and even multiplied during and following political transition and transitional justice measures.

The IIMP may not be fully entitled and objectively capable of redressing all the challenges faced by women, however comparatively this experience is regarded as a unique precedent given that it emerged in a phase that preceded a transitional justice process and enshrined in its mandate special and exclusive components for the participation of victims and families and supporting them. Thus, the IIMP could contribute radically to alleviating the sustainable impact of enforced disappearance on women through practical measures, the most important of which may be "the certificate of absence". In the shadow of the abovementioned circumstances, particularly those that pose an essential impediment in the path of acquiring documents required by women such as the declaration of a missing person or a death certificate or others, resorting to a certificate of absence may serve as one temporary procedure that addresses many situations without pressuring women to take uninformed decisions to acknowledge the death of a victim. The "Terms of Reference of the IIMP" itself has referred to the possibility of adopting best practices related to the search for missing persons and support of families,<sup>88</sup> among

<sup>87</sup> For more, see: Ariel E. Dulitzky, *Latin America's Contributions to the Development of Institutional Responses to Enforced Disappearances*, in Jennifer Heath and Ashraf Zahedi (Eds.), *Book of the Disappeared: The Quest for Transitional Justice*, University of Michigan Press (2023), pp. 29-61.

<sup>88</sup> United Nations General Assembly, *Implementation of the resolution establishing the Independent Institution for Missing Persons in the Syrian Arab Republic: Report of the Secretary-General, A/78/627*, 1 December 2023, p11, para 17.

those is a set of guidelines and directives that provide practical and useful alternatives, particularly in terms of support, without prejudice to the rights of victims and families or any impairment to the principle of “do no harm”, for instance, those suggested and adopted by the International Committee of the Red Cross (ICRC).<sup>89</sup> On the other side, the IIMP could pay genuine attention to communicating and corresponding with and affecting the States in which the women affected by enforced disappearance, within the context of its mandate, to look into possible best practices, in accordance with international law and the duties of the State towards all individuals within its territories, to create alternative practical and easy procedures that enable women to overcome the challenges imposed on them concerning proving the legal status of the victims and the impact of disappearance on them in a manner similar to issuing certificates of civil death or any other measures compatible with the national laws of these States.

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89 See, for example: International Committee of the Red Cross, Guidance notes on national mechanisms for missing persons, Toolbox, June 2022; ICRC, Guiding Principles/Model Law on the Missing, 28 February 2009.



## 6. Conclusions and Recommendations

Numerous studies and research have addressed the gendered impact of international law violations in Syria, many of which pointed to their causes as well as their ramifications in the long term not only for women but for Syria's future too. While the study of women's experiences in this paper intersects with many of the findings of these studies and research, it contributes, in addition, to uncovering detailed sub-levels of challenges that reflect a structural failure in enforcing the State's legal obligations towards the rights and freedoms of women at the legislative, executive, and social levels. Women's experiences further reveal the intergenerational impact of this failure that should be a priority for all human rights and civil society interventions, as well as among the top issues on the agenda of any path forward for Syria's future.

In general, Syrian laws and legislations are not based on rights but rather on "obligations", which inherently makes the entire system of rule of law non-victim centered but rather based on the enforcement of the law by the addressed audience. This approach has had a clear impact on women's experiences since it shifted the burden of enforcing legal procedures and provisions to them in order to enjoy their rights which are most of the time violated by the authorities responsible for protecting them. The right to know and access information has been suppressed since - in addition to the implementation obstacles- the law in place asked the victim to fulfill a complicated set of requirements, standards and exaggerated criteria that do not take into consideration the State's obligation to respect, protect, and fulfill this right. Instead of obligating the enactment of clear and accessible procedures and measures by the official authorities to fulfill these obligations, the law enabled in the first place the violation of all rights related to the enforced disappearance of the victim and his family by imposing provisions that do not reflect a clear respect to these rights despite their constitutional status, nor do they provide protection from their violation; for example, non-codification of the duty of the authorities to inform the families, providing means of accessing and sharing information with them about their loved ones who are deprived of their liberty. The law also failed to enforce the duties of the state under IHL and International Human Rights Law (IHRL) of facilitating the search for the missing, providing support and reparations to the families of the victims. It has also failed to provide legal procedures to report and access information, to guarantee the rights of victims and their families with no discrimination, to obligate or facilitate providing support and assistance to the affected families and to take into consideration their overall conditions, and to enhance the awareness about their rights and ways and means to enjoy them without being subject to further violations by either the State itself or other actors.

As the experiences of women have reflected, the impact of such laws reverberates on them and on their families and serves to cumulatively exacerbate their lack of enjoyment of their fundamental rights and consequently impedes any possibility for their well-being and empowerment to play their role not only within the social sphere, but also in public and political life and in shaping effective and meaningful transitional justice processes, as has been witnessed in the experience of many peoples in which victims and families, through their associations and communities, especially those led by women, have played a central role in defining and implementing these processes. It is indeed not reasonable to expect the women to also bear the burden of these damages in order to fulfil this natural role, since the State should uphold its legal responsibilities to eliminate any discrimination by law or practice that prevents women from fulfilling this role at all times.

The multi-faceted and enduring impact of enforced disappearance on women and on their families complicates the issue of reparation within the context of effective remedy and transitional justice. Enforced disappearance is,



of course, a continuing crime which will not end until the fate of the victim is clarified, and the victim is returned, and responsibility is established, truth is revealed, and reparation provided. However, in the case of women enforced disappearance involves a series of other violations that could be considered grave and continuing violations because of their impact. For example, the deprivation of children of their education because of the economic burdens that are placed on the woman because she is not responsible for provoking this deprivation is itself a violation of their right and would require specific measures of reparation that are tailored to the harm caused to their health, well-being, future economic opportunities, potential exploitation and child labour and so on.

Enforced disappearance has a profound impact on the economic, social and cultural rights of women and their families, these are the rights which are usually given less attention, compared with the civil and political rights, which is, of course, a wrong idea and approach. However, women's experiences have shown that this impact is closely linked to the interplay and relation between the legal and social systems based on structural discrimination against women, which feed the social stereotypes and stigma against them. The problem is not only related to the absence of specific legal systems but to the existing systems that affect the repercussions and nature of enforced disappearance and consecrate social systems that marginalize women and aggravate their alleged vulnerability due to the patriarchal nature of the society, which expose them to more authoritarian violations by the official authorities as well as their family and social environment. For example, if we look at the experiences of child marriage that some women faced, we will notice the typical discrimination that does not give the mother the authority over her daughter (which is a detail related to civil and political rights) interacts with the economic burden on women and "facilitates" underage marriage, because of and through the social authority given to men in the woman's family, which is related to the package of economic, social and cultural rights.

Conclusively, with the victims and families taking an advanced and pivotal role in issues related to truth and justice, and the establishment of the IIMP, there is an important opportunity to invest in these developments not only to address the effects of enforced disappearance upon women, but also to empower them within the community of victims in general to play a leading role in these efforts. The following recommendations are based on the women's experiences, their recommendations as well as the discussions with Caesar Families Association. Thus, they particularly concern women affected by enforced disappearance in Syria, although they are comprehensive in a way that targets the community of victims and families in general.

### **Independent Institution for Missing Persons in Syria**

- Activate the “Structural Element” for victims and families, especially to develop and prepare strategies for reaching out to the communities of victims and families, particularly women affected by enforced disappearance.
- Prioritize knowledge-sharing interventions that are well-informed about the human rights framework surrounding enforced disappearances and missing persons in general, and the IIMP in particular, and capitalize on the accumulated expertise and reach of victims’ and families’ associations in cooperation with trusted experts and CSOs.
- Any memorandum of understanding, or cooperation with any stakeholder, shall include the aforementioned components as crucial elements of the partnership.
- Integrate measures for any cooperation agreements with service or information-sharing referral entities, to make sure that these partnerships are well-communicated and that their roles and scopes of cooperation are well-promoted. This ensures that women are accessing them with full knowledge of what those entities are, and what they can expect.
- Uphold a rights-based approach in communicating and engaging with women affected by enforced disappearance, ensuring that all staff working within this focus area have the necessary skills and expertise to carry out this approach.
- Entrench the tasks and responsibilities of the Victims’ Advocate that is due to be assigned within the structure and composition of the IIMP under its mandate, with a main component that focuses on women affected by enforced disappearance.
- Establish a program of legal services specialized within the IIMP to provide legal advice and support dedicated to women, aimed at providing them with clear guidance on their rights and available legal procedures.
- Ensure that women affected by enforced disappearance are effectively represented within the IIMP’s Advisory Board, in a way that makes sure their meaningful participation in influencing and driving the structural element is achieved.

### **Victim and Families Associations**

- Prioritizing the outreach to women affected by enforced disappearance communities in different locations across Syria, to consecrated representation, inclusiveness, and efficient participation.
- Networking and collaboration with CSOs and other local initiatives through coordinating and organizing interventions that spread informed knowledge and empower women around their rights and involving them into the strategic advocacy pathways related to their issue.
- Utilizing advocacy spaces and the engagement with international actors to make the cause for women affected by enforced disappearance a priority, and to provide them with representation in such spaces and forums.
- Capitalizing on concluded expertise in verification, research, and information analysis to support women and contribute to avoiding their exposure to extortion practices and emotional and material exploitation.

### **Civil Society Organizations**

- Incorporating legal knowledge activities and interventions for women affected by enforced disappearance as a permanent component into programs/projects plans and resources.
- Developing a network of specialized service providers relevant to women affected by the enforced disappearance and strengthening cooperation with them in the field of referral.
- Enhancing and intensifying “harm reduction” projects and interventions for women affected by enforced disappearance.
- Developing a “bridging” strategy for communication and outreach to communities of women affected by enforced disappearances in highly marginalized areas and/or of a security specificity.
- Developing and implementing strict policies dealing with victims and families, especially women, in documentation processes, which must be based on informed consent, emanating from full knowledge of the aims, objectives and expected outcomes of the documentation process. Train staff of these organizations in this field and enhance their skills periodically, as well as establish performance monitoring and review mechanisms.

### **Humanitarian and Relief Organizations**

- Adopting gender and context-sensitive needs assessment guidelines that include and ensure the specificities of the experiences of women affected by enforced disappearance.
- Developing response measures specifically catering to the needs of women affected by enforced disappearance, particularly in relation to procedural measures.
- Adopting legal support services as a fundamental component of humanitarian and relief efforts and as an inherent part of organizations’ services.
- Developing cumulative intervention and support programs that foster sustainability and local agency in this regard.
- Establishing strict policies regarding the type and manner of data collection required from women for humanitarian and relief interventions, and adopting policies that ensure obtaining the minimum necessary data, ensure the protection of their privacy and security, and require their informed consent. Relevant teams should be trained accordingly.
- Employing coordination and communication policies with local authorities for humanitarian and relief purposes in order to improve existing procedures and measures affecting women affected by enforced disappearance.

### **Syrian Authorities**

While the Syrian authorities bear the primary responsibility for the overwhelming majority of enforced disappearances in Syria, they also retain positive obligations towards victims of enforced disappearances and their families, without prejudice to or derogation from their primary obligations to prevent enforced disappearances, to reveal the fate of the disappeared, to take all feasible measures to provide families with information, and to hold accountable the perpetrators responsible for such violations. To this end, the following list serves as a reminder of the Syrian authorities’ legal obligations and the very least they should do in light of

the gravity, scale, and impunity characterizing the enforced disappearance crisis in Syria:

- Immediately accede to the 2006 Convention for the Protection of All Persons from Enforced Disappearances, which will replace and supersede the laws that the Syrian authorities have consistently relied on to claim that they afford protection from enforced disappearances, such as Legislative Decree No. 20 of 2013.
- Amend legislation relating to the status of missing or absent persons to reflect the State's duty to fulfill the rights of families and to remove the burden—which falls disproportionately on women—for implementing these laws and to remove any existing measures that obstruct women's access to information about victims and other services and entitlements, particularly those of a security nature.
- Engage constructively with relevant United Nations mechanisms, including the WGEID, the Committee on Enforced Disappearances, and the Committee on the Elimination of Discrimination against Women, to make any such amendments or enact other necessary legislation or measures.
- Establish a temporary official mechanism to address the documentation needs of women affected by enforced disappearance inside and outside Syria that is accessible, gender-sensitive, and civilian-led, and ensure that women can access such mechanisms wherever they are.
- Cooperate immediately with the IIMP, a purely humanitarian endeavor that is in the interest of all Syrians and Syria's future and facilitate its work throughout the Syrian territory.

### **Local Authorities**

- Without prejudice to, or abdication of the legal responsibility incumbent upon the Syrian authorities, it is imperative to emphasize that non-State armed groups and de facto authorities also bear responsibilities under international law as parties to the armed conflict that exercise control over territory/territories and populations.
- Review and amend any restrictive measures and procedures that impede women's access to legal, administrative, and other services.
- Cooperate with local legal professionals and bar associations to develop rights-based legal alternatives to the barriers affecting women affected by enforced disappearance.
- Facilitate the work and interventions of humanitarian, relief, and CSOs that include services dedicated to women affected by enforced disappearance.
- Review field and administrative measures relating to women affected by enforced disappearance in camps and displacement sites, and designate measures that respond to their needs as women who are doubly affected on account of the enforced disappearance.



Our hope endures in  
reclaiming our rights and  
achieving justice.



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