THE LEGAL ENVIRONMENT THAT LEAVES SCOPE FOR VIOLENCE AGAINST WOMEN IN POLITICS IN SYRIA





Feminist Eye- Observation for Action

Feminist Eye- Observation for Action is a feminist initiative that helps monitoring violence against women and girls in Syria, by highlighting legislations that tolerate violence, providing statistical data on this phenomenon, and proposing legal tools to combat it.

Feminist Eye- Observation for Action is a tool for knowledge, mobilization and advocacy for everyone striving for a society free of violence against women and girls.

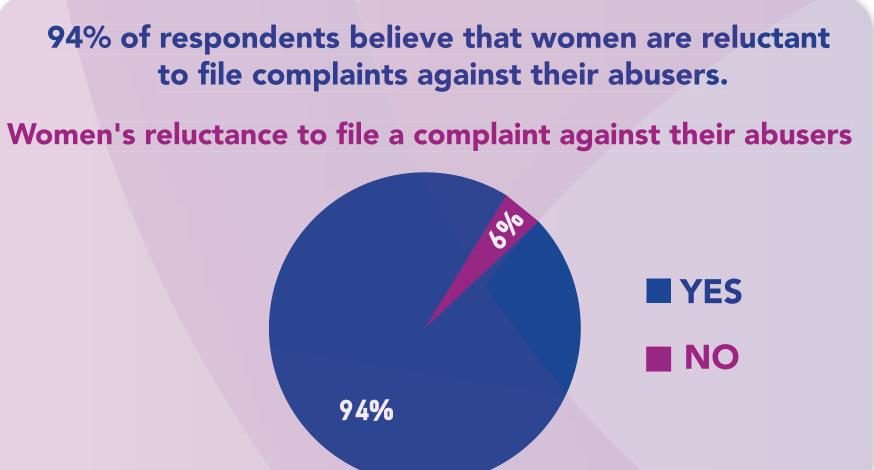
Inductive Statistics

"Feminist Eye... Observation for Action" carried out a study aimed at monitoring women's opinions about the litigation process in violence cases in Syria, the reasons that prevent them from filing complaints, and the difficulties they might encounter in the event of reporting.

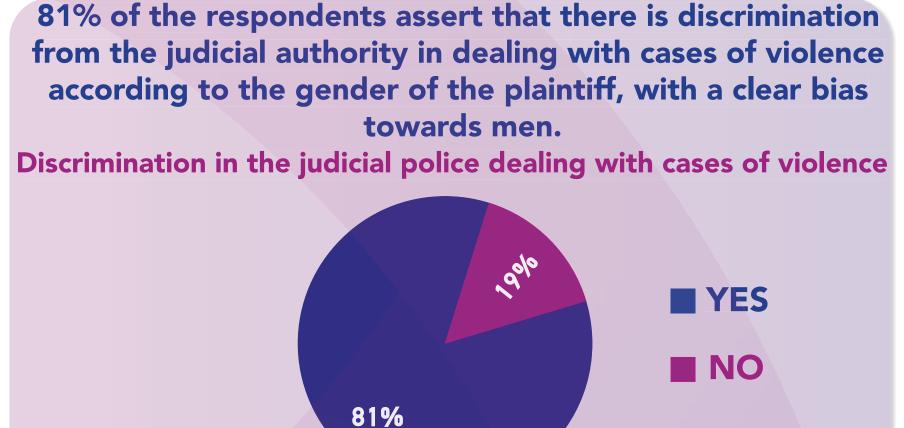
Study Population and Sample

Sample Community: Syrian women and girls and the like.

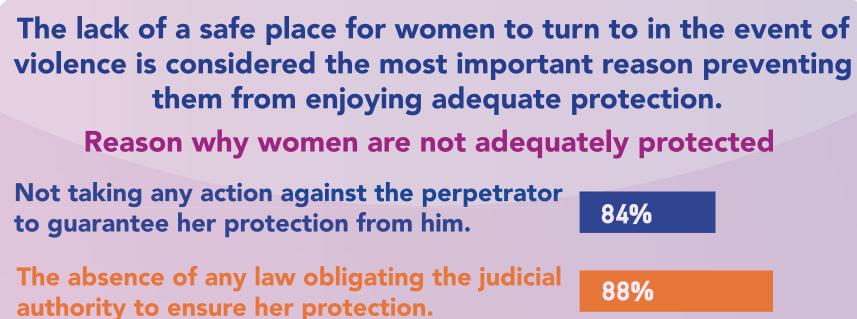
Study Sample: A non-probability sample (accidental or opportunity sampling) of 500 Syrian women. An electronic questionnaire was distributed online. We got 500 answers, 2% of them will be discarded because they were from non-Syrian women, so the sample will be 490 Syrian women and girls.









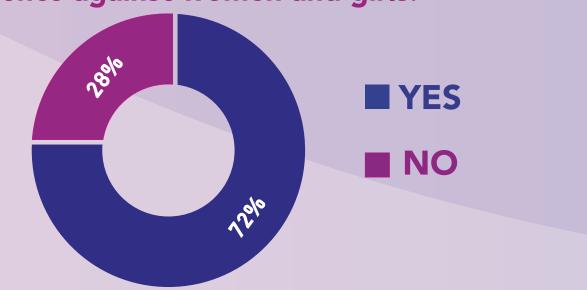


The lack of a safe space to turn to in the event

of violence.



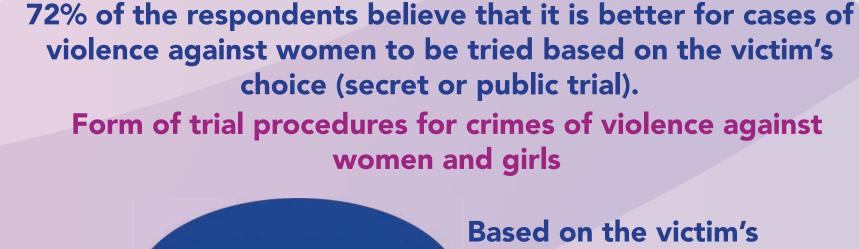
According to 72% of the respondents, judges do not have the necessary competencies to deal with cases of violence against women because of their patriarchal societal culture and poor knowledge of the nature of cases of violence against women. Judges have the necessary competencies to deal with cases of violence against women and girls.



Sexual neuroticism is one of the most important reasons for judges' bias and lack of impartiality, based on the opinion of 91% of the respondents. The reasons for the judges' lack of competencies to deal



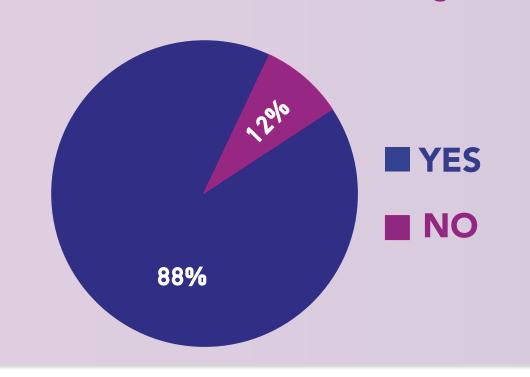


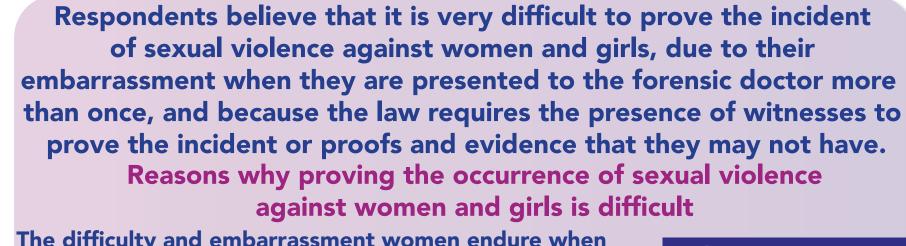


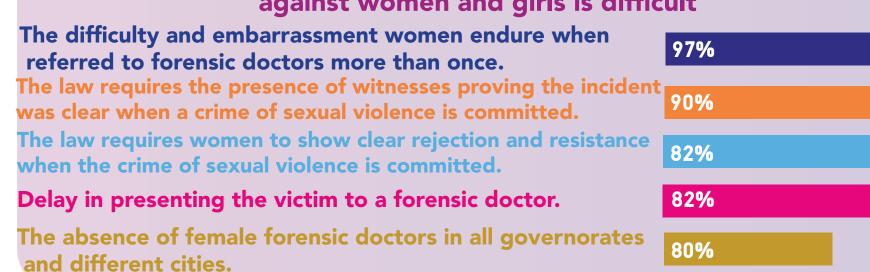


82% of the respondents believe that there is difficulty in proving the occurrence of sexual violence against women.











THE LEGAL ENVIRONMENT THAT LEAVES SCOPE FOR VIOLENCE







The judicial authority undertakes the necessary investigations to collect and preserve evidence. • Take the statements of the complainant or plaintiff and of the suspects. • Take the statements of witnesses. • Carry out required examination. • Have the complainant or plaintiff examined by a medical examiner and ask for their opinion. EITHER to file a public suit by the prosecution • Draft a report documenting all measures taken and information gathered. If the act is a felony, all files are turned to the (Article 6 of the Code of Criminal Procedure) and (Articles 198-199 of the Code of Police Service). investigative judge. • If the act is a misdemeanour, files are turned to the investigative judge or the competent court directly (Court of the Peace or Court of First Instance). The prosecution is given all reports **FILING PRELIMINARY** and investigations once completed. THE COMPLAINT INVESTIGATION (Article 49 of the Code of Criminal Procedure) **Physical or Sexual** Abuse/Assault The prosecution decides: against Women or Girls OR the investigation files are archived if: The elements of the crime are not evidenced. • There is no sufficient evidence. If the case is in flagrante or if the crime occurs inside the home The abused/assaulted woman, or her legal (upon the request of the homeowner) representative, files a written complaint (Article 49-50 of the Code of Criminal Procedure). • Go to the crime scene for examination. with the prosecution or the competent • Check the status of the scene and the people, and prevent those present from leaving. judicial authority. • Arrest the suspects of the crime, search their person and their residence, and seize items. She may take personal legal action against • Draft a report of all action taken and issue summons if they are not present. the perpetrator. (Articles: 25, 37, 49, 50, 57, 58, 59, 60, (Articles 29, 30, 31, 33, 34, 35, 36, 37, 38, 112 of the Code of Criminal Procedure). Syrian Code of Procedures). If the case is a misdemeanour in flagrante inside the home (upon the request of the homeowner)

- Arrest the defendant and bring them before the prosecution.
- The prosecution interrogates the defendant.
- Referral of the arrestee to the competent court (Court of the Peace or Court of First Instance).

(Articles 231 of the Code of Criminal Procedure).

Recommendations for the **Preliminary Investigation**

- Establish dedicated competent parties to receive reports of violence against women and girls (such as through applications or the free national women's hotline, so that they can provide services to the surviving victims of violence in all hours of day and night)
- Establish a dedicated prosecution bureau to process complaints of violence against women and girls.
- Establish in the Ministry of Interior, as per its legislation and bylaws, departments of judicial authority to follow up on violent crimes against women and girls.
- Embed in penal laws legal provisions penalizing agents of judicial authority, under the law, who show negligence in processing complaints or reports regarding violence against women and girls, irrespective of the person filing them. Any attempt to coerce women into recanting their complaints would leave the judicial officer subject to disciplinary measures. Officers would be punished for pressuring victims or exercising any form of coercion to relinquish their rights, or change or recant the complaint.
- Embed in penal laws legal provisions obligating health clinics, community centres, public and private academic institutions to report any suspicious activities involving violence against women and girls, under the penalty of legal action.
- The law must also provide for expeditious and special rooms affiliated with health centres and hospitals to handle "judicial evidence" in cases of domestic violence, an undertake measures to prevent the loss of evidence due to time (bruises caused by rape will fade over time). The law must also punish all who show negligence or complacency.
- The law must provide for female medical examiners to prevent any embarrassment women and girls may feel if examined by men.
- Police departments (specialized in preliminary investigations and drafting the report) must include male and female non-commissioned officers and ranking officers, given the sensitive subject and to avoid any embarrassment women or girls may feel when talking about certain incidents in front of men.
- Provide emergency shelters for survivors, adequately dispersed based on geographic and population density considerations.
- The judicial authority in charge of the investigation, after seeking the approval of the prosecution, must provide all necessary protections to abused women, namely:
- o Move the victim and children living with her, when necessary, to safe locations in coordination with competent bodies and the Child Protection Delegate.
- o Transport the victim to receive medical attention if physically wounded.
- o Remove the defendant from the victim's place of residence or prevent the defendant from approaching the victim or going to her place of work in case of danger on the victim or children living with her.



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Investigative Judge

- Collect evidence by going to the crime scene to search and examine.
- Subpoena the accused for questioning and issue arrest warrants.
- Delegate experts to conduct the required relevant technical tests.
- Hear witness statements.

(Articles 33, 39, 40, 46, 52, 69, 74, 94, 97, 101, 102, 106 of the Code of Criminal Procedure)

Court of the Peace and Court of First Instance

- Opposing parties (plaintiff and defendant) are called upon to attend trial.
- The prosecutor, representative or the plaintiff presents the facts of the case.
- The defendant is questioned.
- Witness statements are heard in the presence of the opposing parties.
- The plaintiff or prosecutor presents their claims.
- The defence presents its case. (Articles 183, 184, 185, 186, 187, 188, 192, 196 of the Code of Criminal Procedure)

Court of the Peace and Court of First Instance

- The verdict shall include all the offenses, rationale and applicable legal texts.
- The judge and court clerk will sign the verdict.
- The verdict is read out in open court.

(Articles 203, 204 of the Code of Criminal Procedure)

PRIMARY INVESTIGATION

EITHER to refrain from prosecuting the accused and release them the act does not rise to a crime, or thereis no evidence to the accused committing a crime.

> OR turn over investigation files to the prosecution to be referred to the Referral Judge if the act is a felony.

(Articles 131, 132, 133, 134, 136, 135, 137 of the

Code of Criminal Procedure)

TRIAL

VERDICT

Referral Judge

Enjoys all the powers and prerogatives of the investigative judge./

Considers the case and verifies facts.

If the investigation is found to be incomplete or lacking:

- Decides either to expand the investigation or conduct a new investigation.
- Declines to prosecute and releases the accused if the act is not considered a crime or the evidence is not sufficient.
- If he concludes that the act is a violation or misdemeanour, he decides to refer the suspect to the Court of the Peace or Court of First Instance.
- If the act is a felony, he decides to file charges and refer the case to the Criminal Court.

Criminal Court

- The accused appears before the court unrestrained, with an armed escort to prevent escapes.
- The accused is asked by the president of the court about his: name, surname, occupation, place of birth and residence.
- The indictment is read out to the accused.
- The prosecutor presents the reasons for the indictment. • The accused are questioned. • Witness statements are heard.
- The plaintiff or their attorney presents their
- claims supported by evidence to the crime.
- The prosecutor presents his claims. The accused presents his defence.

(Articles 277, 270, 280, 281, 284, 308 of the Code of Criminal Procedure)

Criminal Courts

- Once the arguments are presented, the presiding judge shall announce the conclusion of the trial.
- The court verifies all documents, paperwork, warrants in chambers.
- The court issues its verdict by unanimous or majority vote.
- Any objections are documented with their rationale.
- The Court will convict if the crime is evidenced.
- The verdict includes a summary of the facts, the claims of the plaintiff and the prosecution, the defence, the rationale of the conviction or exoneration, the sentence and civil obligations.
- The Court will exonerate the defendant in light of lack of insufficient evidence, and it will give a verdict of "no liability" of the act is not a crime.
- If the Court exonerates the defendant, he is released in casehe is not detained for other reasons.

(Article 309, 310, 312)

Recommendations for the **Primary Investigation and Trial**

- Have dedicated independent chambers in courts with judges specialized in cases of violence against women.
- Provide for the right of the victim of a violent crime to request protection from the competent judicial authority, with the following stipulations:
- o The protection request may be filed by the victim herself, her attorney, guardian, or any person or organization with her approval, by virtue of a written or verbal authorization.
- o The protect order is issued expeditiously without need for proof beyond the complainant's testimony.
- o The law must provide for the surviving victim's right to stay in the family home and must ensure necessary protection.
- o The protection order must be enforced promptly and shall provide for the following, among others:
- Obligating the defendant to refrain from engaging with the victim under the penalty of detention, and need to provide alternative housing
- Obligating the defendant to pay the medical expenses of the victim.
- Obligating the defendant to deliver the victim's personal belongings upon her request.
- Obligating the defendant to cover the expenses of child care, in addition to healthcare and education, pending the alimony decision.
- Obligating the defendant to attend rehabilitation sessions at specialized centres.
- The protection measures may not expire before sufficient time has passive proving the offender's unlikeliness to attack the survivor again, to be evaluated at the judge's discretion and the victim's approval.
- The law must ensure that the application for a protection order does not prevent the victim from pursuing criminal or civil action.
- The protection order must include a deterring punishment exacted on all those who violate it.
- In violent crimes against women and girls, provisions should be promulgated about only relying on the complainant's statements in the absence of other incriminating evidence
- Special measures should be taken to protect witnesses.
- Provisions should be promulgated to free witnesses of professional confidentiality restraints when testifying in cases of violence against women and children.
- The victim must be given the right to choose if the trial would be public or not.
- Utilize necessary medical evidence provided that women are not examined by medical examiners more than once in a manner that would harm her physically or psychologically
- The complainant's and survivor's sexual history should not have bearing when considering the evidence.

Recommendations for the **Verdict Stage**



- The law must provide for deterrent criminal sentences, depending on the national of the criminal act, the extent of the impact (murder, harm leading to death or permanent disability, material or emotional damages), the age of the victim(child, girl, grown woman), her status, i.e. her vulnerability connected to youth, old age, serious illness, pregnancy, mental or physical defect limiting her capacity to fight the assailant, and depending on the offender's character and connection to the victim (spouse, relative, position of power, manager, etc.).
- The offender must not be given any excuses or mitigating reasons, regardless of his capacity or relation to the victim, even in the case of marriage after the fact.
- Heavier sentences should be enforced in cases of repeat offenders, or recurrent violation of protection orders.
- The verdict may provide for obligating the defendant to attend special programs for rehabilitation for a certain period until rehabilitation is proven.