

ACCESS TO JUSTICE FOR CHILDREN: SYRIAN ARAB REPUBLIC

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I. What is the legal status of the Convention on the Rights of the Child (CRC)?

A. What is the status of the CRC and other relevant international instruments in the national legal system?

The Syrian Arab Republic ratified the CRC by means of Legislative Act No. 8 of 13 June 1993. The CRC came into force on 14 August 1993.¹ Pursuant to Syria's accession, the CRC became part of domestic law.² However, this is subject to the following reservation(s):

*“The Syrian Arab Republic has reservations on the Convention's provisions which are not in conformity with the Syrian Arab legislations and with the Islamic Shariah's principles, in particular the content of article 14 related to the Right of the Child to the freedom of religion [...]”*³

Syria has also acceded to the Optional Protocol to the CRC on the involvement of children in armed conflict on 17 October 2003, as well as the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography on 15 May 2003. Syria is not party to the third Optional Protocol to the CRC on a communications procedure.⁴

B. Does the CRC take precedence over national law?

Pursuant to its ratification, the CRC is part of domestic law in Syria and, as a result, must be implemented and respected by the judiciary.⁵ This is confirmed in the Civil Code which affirms that its provisions are not to be applied in contravention to any international treaties in force in the Syrian

¹ United Nations OHCHR, Reporting status for Syrian Arab Republic, Convention on the Rights of the Child, Reporting Cycle I, State party's report, 14 February 1996, para. 4, available at: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=SYR&Lang=EN.

² Ibid, para. 5.

³ United Nations Treaty Collection, Convention on the Rights of the Child, available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en#EndDe [c](#).

⁴ United Nations Treaty Collection, Optional Protocol to the Convention on the Rights of the Child on a communications procedure, signatory parties, available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-d&chapter=4&lang=en.

⁵ State party's report (n 1), para. 5.

Arab Republic.⁶ However, it would appear that this does not equate to the CRC taking precedence over national law, but merely supplementing it.

C. Has the CRC been incorporated into national law?

As aforementioned in part I.A, having been ratified by way of Legislative Act No. 8 of 13 June 1993, the CRC has become part of the national law of the Syrian Arab Republic.

D. Can the CRC be directly enforced in the courts?

Research has not identified any particular instances of the CRC being directly enforced in the courts. However, based on Syria's report to the Committee on the Rights of the Child mentioned in part I.A, it would appear that it is domestic law that is to be applied in respect of international treaties, such as the CRC.

E. Are there examples of domestic courts using or applying the CRC or other relevant international instruments?

Research has not identified any known instances of the CRC being applied during proceedings by the domestic courts in Syria.

II. What is the legal status of the child?

A. Can children and/or their representatives bring cases in domestic courts to challenge violations of children's rights?

No Syrian citizen under 18 years of age is competent to act as a party to legal proceedings.⁷ The age of majority in Syria is 18 and any person under this age is considered a 'child' under domestic legislation;⁸ upon attaining the age of majority, one is capable of exercising their civil rights fully.⁹ The Civil Code goes on to further distinguish persons incapable of acting with 'discretion' as anyone under seven years of age; such persons are, consequently, incapable of exercising their civil rights.¹⁰ Additionally, where stipulated by law, children aged 7 to 18 years old cannot exercise their civil rights either.¹¹

⁶ Law No. 84 of 1949, the Syrian Civil Code, Article 25, available at (Arabic): <http://www.wipo.int/edocs/lexdocs/laws/ar/sy/sy012ar.pdf>.

⁷ State party's report (n 1), para. 46.

⁸ The Syrian Civil Code (n 6), Article 46(2).

⁹ Ibid, Article 46(1).

¹⁰ Ibid, Article 47.

¹¹ Ibid, Article 48.

The definition of childhood is confirmed in the opening article of the Juvenile Delinquents Act, which addresses instances of children being prosecuted criminally.¹²

The Personal Status Law reiterates once more that a child is any person that has not yet attained 18 years of age.¹³ This legislation goes on to state that guardianship is for the child's relatives, the father in the first instance;¹⁴ also that it is for the father, or the father's father, to be committed to the guardianship of the child and the child's affairs until they reach adulthood.¹⁵ In cases of conflicts of interest between the child and their guardian, the court may appoint one in their best interests.¹⁶ It would appear that an 'authorised' minor has the capacity to exercise their rights fully, including bringing a case to court;¹⁷ but it is unclear whether this is only in regard to matters concerning the management of their finances/property or applies beyond that.

The civil procedure law states that no claim can be made unless the claimant has a personal interest under law;¹⁸ a preemptive claim in order to avert an anticipated harm is also permitted.¹⁹ In any case, it is for the court to verify whether the individual has the capacity to act legally, as well as the validity of any representation or authorisation to act on their behalf.²⁰

With regard to criminal prosecutions, it is solely for the Public Prosecutor to initiate public actions, unless otherwise stipulated by law;²¹ however, they are obliged to do so if the person that has incurred the harm personally requests them to do so in accordance with the law.²²

In light of the above legislative provisions, it is to be concluded that it is for the child's guardian to initiate legal proceedings on their behalf.

B. If so, are children of any age permitted to bring these cases by themselves in their own name/on their own behalf, or must the cases be

¹² Law No.18 of 1974, the Juvenile Delinquents Act, Article 1, available at (Arabic): <http://www.syrianbar.org/index.php?news=161>.

¹³ Law No. 59 of 1953, the Personal Status Law, Article 162, available at (Arabic): <http://www.syrianbar.org/index.php?news=167>.

¹⁴ Ibid, Article 163(2).

¹⁵ Ibid, Article 170.

¹⁶ Ibid, Articles 174, 175.

¹⁷ Ibid, Article 166.

¹⁸ Law No. 84 of 1953, the Civil Procedure Law, Article 11(1), available at (Arabic): <http://www.reefnat.gov.sy/Law/datalaw/law12.htm>.

¹⁹ Ibid, Article 11(2).

²⁰ Ibid, Article 16.

²¹ Law No. 12 of 1950, the Criminal Procedure Law, Article 1(1), available at (Arabic): <http://www.syrianbar.org/index.php?news=383>.

²² Ibid, Article 1(2).

brought by or with the assistance of a representative?

As aforementioned in part II.A, it is for the child's guardian to bring a case to court on their behalf as they do not have the capacity to do so themselves under Syrian legislation.

C. In the case of infants and young children, how would cases typically be brought?

In conjunction with the information in part II.A, it is for their parent(s) or guardian to initiate legal proceedings of a civil nature; it is for their parent(s) or guardian to notify the Public Prosecutor, if the child is the victim of a crime, who will then initiate a public action in their name.

D. Would children or their representatives be eligible to receive free or subsidised legal assistance in bringing these kinds of cases?

Article 51(3) of the Constitution of the Syrian Arab Republic states that the State shall guarantee legal aid to those that do not have the means to cover it. This constitutional right to legal aid is reinforced in the Legal Aid Law, which defines legal aid as the waiver of court fees for the parties concerned or in need and the appointment of a legal representative free of charge.²³ Legal aid is only allowed to those that cannot afford the costs of proceedings.²⁴ Legal aid is affordable to either party to proceedings, as well as any intervenors also.²⁵

Article 61 of the Criminal Procedure Law confirms that legal aid is available, should the claimant abide by the requirements of the Legal Aid Law.

With regard to juvenile justice, Article 44(b) of the Juvenile Delinquents Act states that the parent or guardian of the child has an obligation to provide them with a lawyer when charged with a crime or misdemeanour; should the parent or guardian not have the capacity to do so, the juvenile court will appoint them on their behalf.

E. Are there any conditions or limits on children or chosen legal representatives bringing cases (e.g. would a child's parents or guardian have to agree to a case being brought)?

Please see part II.A above for further information regarding the age of

²³ Law No. 34 of 1938, the Legal Aid Law, Article 1, available at (Arabic): <http://www.damascusbar.org/AlMuntada/showthread.php?t=8447>.

²⁴ Ibid, Article 6.

²⁵ Ibid, Article 10.

majority in Syria, before which a child does not have legal capacity to act, as well as details concerning guardianship of the child.

III. How can children's rights violations be challenged before national courts?

A. If there is a potential violation of the Constitution or other principles established in domestic law, or with the CRC or other relevant ratified international/regional instruments, how can a legal challenge be brought?

It is for the Supreme Constitutional Court to control the constitutionality of laws, legislative decrees, bylaws and regulations.²⁶ If, during proceedings, one of the parties calls into question the constitutionality of the law being applied, the court in question can halt proceedings and refer the matter to the Supreme Constitutional Court if it deems the claim a serious and valid one.²⁷ The Supreme Constitutional Court has 30 days to pronounce on the matter in such an instance.²⁸ It is not possible to bring a claim directly to the Supreme Constitutional Court; they may only be made by referral in existing proceedings.

The Civil Code states that anyone who has incurred any harm to their civil person has the right to demand the cessation of said harmful act and compensation for the harm suffered.²⁹ This is reiterated in Article 164 of the Civil Code, which states that any 'error' committed to the detriment of another must be compensated by the responsible party. As aforementioned in part II.A, a claimant must have a personal interest in the civil claim made. With regard to child claimants, it would be their parent(s) or guardian acting on their behalf.

Under the Criminal Procedure Law, any victim of a crime is entitled to claim compensation for any personal harm incurred therefrom.³⁰

B. What powers would courts have to review these violations, and what remedies could they offer?

In civil matters, it is for the judge to decide on the appropriate compensatory measures based on the facts and circumstances of the case at hand.³¹ It is

²⁶ The Constitution of the Syrian Arab Republic 2012 (unofficial translation), Article 146(1), available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_125885.pdf.

²⁷ Ibid, Article 147(2)(a).

²⁸ Ibid, Article 147(2)(b).

²⁹ The Syrian Civil Code (n 6), Article 52.

³⁰ The Criminal Procedure Law (n 21), Article 4.

³¹ The Syrian Civil Code (n 6), Article 171.

preferable that the compensatory measure be financial in nature,³² to be paid in instalments to the party that incurred the harm.³³

If a person is wrongfully sentenced by a final ruling and carries out his or her sentence, he or she shall have the right to ask the state for compensation for the damage he suffered.³⁴

If the Constitutional Court rules that a law, legislative decree or bylaw is unconstitutional, such provisions will be annulled with retroactive effect.³⁵

C. Would such a challenge have to directly involve one or more individual child victims, or is it possible to challenge a law or action without naming a specific victim?

The Civil Procedure Law further stipulates that the individual claimant and/or their representative be named in the application to court, amongst other required details.³⁶ There are no stipulated exemptions for minors in the legislation.

D. Is any form of collective action or group litigation possible, with or without naming individual victims?

In stipulating the conditions for the monetary values of civil claims, the Civil Procedure Law affirms that joint actions are possible.³⁷ However, they would be subject to the aforementioned requirement to name the interested parties. It is unclear whether courts will entertain group litigation proceedings.

E. Are non-governmental organisations permitted to file challenges to potential children's rights violations or to intervene in cases that have already been filed?

Research has not identified any particular mention of the involvement of non-governmental organisations during the legal process in Syria. It has not been possible to ascertain the role, if any, that such organisations can play in terms of challenging children's rights violations.

IV. Practical considerations Please detail some of the practical issues, risks and uncertainties that might be involved in bringing a case to challenge a violation of children's rights, such as:

³² Ibid, Article 172(2).

³³ Ibid, Article 172(1).

³⁴ Constitution, Article 53(4).

³⁵ Ibid., Article 147(1)(c).

³⁶ The Civil Procedure Law (n 18), Article 20.

³⁷ Ibid, Articles 58, 59.

A. Venue: In what courts could a case be filed (e.g. civil, criminal, administrative, etc.)? What would the initial filing process entail?

Regarding matters of juvenile justice, Article 31 of the Juvenile Delinquents Act states that juveniles are to be prosecuted in specialised juvenile courts.

The Court of First Instance has jurisdiction over all civil and commercial matters that are not under the specific jurisdiction of another court.³⁸

Territorially, the court with jurisdiction is that of the precinct of the defendant's home; that of their temporary residence should they not be settled in Syria; or that of one of the defendants' homes should they be multiple.³⁹

Regarding matters of personal status, it is the religious courts that have the final say on the guardianship of a child;⁴⁰ they have exclusive jurisdiction regarding personal status matters for Muslims.⁴¹

Criminal proceedings ("public actions") are to take place before the tribunal of the precinct of the location where the crime was committed in the first instance, otherwise the precinct of the domicile of the defendant, or that of the location where they were arrested.⁴² The Criminal Court has jurisdiction over felonies and misdemeanours referred to it pursuant to a decision to charge the defendant by the Referral Judge.⁴³ The Court of First Instance has jurisdiction over certain matters within its competences that have been raised before it, or those allocated to it in accordance with the Criminal Procedure Law.⁴⁴

B. Legal aid / Court costs: Under what conditions would free or subsidised legal aid be available to child complainants or their representatives through the court system (i.e. would the case have to present an important legal question or demonstrate a likelihood of success)? Would child complainants or their representatives be expected to pay court costs or cover other expenses?

As aforementioned in part II.D, the Constitution of the Syrian Arab Republic states that the State shall guarantee legal aid to those that do not have the

³⁸ Ibid, Article 77.

³⁹ Ibid, Article 81.

⁴⁰ Ibid, Article 535(1).

⁴¹ Ibid, Article 536.

⁴² The Criminal Procedure Law (n 21), Article 3(1).

⁴³ Ibid, Article 172.

⁴⁴ Ibid, Article 171.

means to cover the costs incurred.⁴⁵

In accordance with the Juvenile Delinquents Act, juveniles are exempted from paying any court fees in cases before the juvenile courts.⁴⁶

As aforementioned in part II.D, Article 61 of the Criminal Procedure Law makes specific reference to the Legal Aid Law provisions in confirming the availability of legal aid.

In civil matters, the court fees, as well as expenses for lawyers, are to be covered by the losing party.⁴⁷ However, the winning party may be ordered to cover the fees, partly or in their entirety, should they default in participating honourably during proceedings, by withholding pertinent documentation, for example.⁴⁸

C. Pro bono / Financing: If legal aid is not available, would it be possible for child complainants or their representatives to obtain legal assistance from practising lawyers on a pro bono basis, through a children's rights organisation, or under an agreement that does not require the payment of legal fees up front?

It has not been possible to identify any definitive information regarding the practice of pro bono legal representation in the Syrian Arab Republic. Organisations that provide legal assistance to children in Syria could not be identified.

D. Timing: How soon after a violation would a case have to be brought? Are there any special provisions that allow young adults to bring cases about violations of their rights that occurred when they were children?

In civil matters, claims for compensation must be made within three years of the date that the complainant became aware of the harmful act and of its perpetrator;⁴⁹ the capacity to claim expires in any case following the passage of 15 years from the date of the harmful act.⁵⁰ There is an exception to this rule if the civil claim corresponds to a crime having been committed; in such instances, the capacity to initiate criminal proceedings remains viable, as does the accompanying civil claim for redress.⁵¹

⁴⁵ The Constitution of the Syrian Arab Republic 2012 (unofficial translation) (n 17), Article 51(3).

⁴⁶ The Juvenile Delinquents Act (n 12), Article 52.

⁴⁷ The Civil Procedure Law (n 18), Article 209.

⁴⁸ Ibid, Article 210.

⁴⁹ The Syrian Civil Code (n 6), Article 173(1).

⁵⁰ Ibid.

⁵¹ Ibid, Article 173(2).

With respect to criminal proceedings, limitation periods could not be identified.

E. Evidence: What sort of evidence is admissible/required to prove a violation? Are there particular rules, procedures or practices for dealing with evidence that is produced or presented by children?

In accordance with the Criminal Procedure Law, no person under 15 years of age is to testify before the courts in Syria under oath.⁵² Juveniles may also be exempted from attending proceedings.⁵³

In cases involving rape or other indecent acts, however, the child victim is considered to be the principal witness in legal proceedings by the Syrian judiciary.⁵⁴

In matters of juvenile justice, the Juvenile Delinquents Act states that contrary to the procedural rule stipulating that trials are to be held in public, juveniles must be tried *in camera* in order to maintain the child's anonymity and thereby prevent their future from being endangered in any manner.⁵⁵ This confidentiality is equally applicable to the time of arrest and during the investigation period.⁵⁶ The juvenile may also be exempted from the requirement to attend trial at the judge's discretion if deemed to be in their best interests.⁵⁷

F. Resolution: How long might it take to get a decision from the court as to whether there has been a violation?

With regard to matters of juvenile justice, the Juvenile Delinquents Act states that the proceedings are to be conducted as quickly as possible and that judgments are to be rendered expediently in the best interests of the child.⁵⁸ Juvenile courts are also competent to pass judgments for accelerated implementation if this is in the best interests of the child concerned.⁵⁹ Whilst no specific timeframe is stipulated, it implies that juvenile courts are capable of concluding proceedings with urgency if required.

G. Appeal: What are the possibilities for appealing a decision to a higher

⁵² The Criminal Procedure Law (n 21), Article 81.

⁵³ Ibid, Article 190.

⁵⁴ State party's report (n 1), para. 47; Syrian Court of Cassation Ruling No. 28 of 23 January 1979 and Ruling No. 156 of 3 March 1979.

⁵⁵ The Juvenile Delinquents Act (n 12), Article 49(a).

⁵⁶ Ibid, Article 39.

⁵⁷ Ibid, Article 48.

⁵⁸ Ibid, Article 46.

⁵⁹ Ibid, Article 50.

court?

The judgments of the juvenile courts are final;⁶⁰ appeal is possible on behalf of the child by their guardian or the person responsible for them.⁶¹ The opportunity for applications for the cassation of a judgment are accorded to the Public Prosecutor.⁶²

The Civil Procedure Law affirms that the Court of Appeals has jurisdiction over all appealed judgments from the Court of First Instance, as well as all matters provided for in specific legislation.⁶³ Appeals are only accepted from the losing party.⁶⁴ Appeals are permitted from the day that the judgment is passed and the requirements resulting from particular types of hearings are listed in Article 221 of the Civil Procedure Law. The right to appeal is forfeited if these limitation periods are not adhered to.⁶⁵

The Criminal Procedure Law states that appeal is only available for jurisdictions of first degree; judgments of the highest courts are only susceptible to cassation.⁶⁶ Appeals are available to all parties to criminal proceedings, including the Public Prosecutor.⁶⁷ Appeals can be lodged directly with the Court of Appeal by the party concerned, or can be made via the court that handed out the judgement in question.⁶⁸

H. Impact: What are the potential short-term and long-term impacts of a negative decision? Is there a possibility for political backlash or repercussions from a positive decision?

The Rule of Law is severely compromised in the Syrian Arab Republic. Whilst government interference in the actions of the civil judiciary is supposedly forbidden under the Constitution,⁶⁹ the reality is that all judges and prosecutors are required to belong to the Baath Party, that of President Bashar Al-Assad, and are in practice subservient to the political leadership.⁷⁰

The political climate in Syria essentially eliminates any possibility for judicial transparency and renders the probability for decisions that are not in

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² Ibid, Article 51.

⁶³ The Civil Procedure Law (n 18), Article 79.

⁶⁴ Ibid, Article 219.

⁶⁵ Ibid, Article 222.

⁶⁶ The Criminal Procedure Law (n 21), Article 223.

⁶⁷ Ibid, Article 250.

⁶⁸ Ibid, Article 251.

⁶⁹ The Constitution of the Syrian Arab Republic 2012 (unofficial translation) (n 17), Article 132.

⁷⁰ Freedom House, Syria, Rule of Law, available at: <https://freedomhouse.org/report/freedom-world/2015/syria#.VZUgDby35C1>.

the interests of the government a practical impossibility. Syrian security forces regularly detain people arbitrarily, subjecting them to torture and ill-treatment, and often disappearing persons by means of an extensive network of detention facilities spread throughout the country.⁷¹ The detainees include children.⁷²

The authoritarian regime of President Bashar Al-Assad, whose Baath Party's primacy is confirmed constitutionally,⁷³ routinely violates the human rights of its citizens and partakes in all manner of heinous practices as touched upon above. It is a state of affairs that accords the Syrian judiciary very little freedom but to tow the line and safeguard the interests of said ruling party. As such, the prospect of a judgment that would place the interests of the claimant above those of the state is highly unlikely.

- I. Follow up: What other concerns or challenges might be anticipated in enforcing a positive decision?

No information could be found in answer to this question.

V. Additional factors. Please list any other national laws, policies or practices you believe would be relevant to consider when contemplating legal action to challenge a violation of children's rights.

Sources of law

In terms of the sources of law in the Syrian Arab Republic, the system remains a synthesis of Ottoman, French and Islamic laws.⁷⁴ The civil, commercial and criminal codes in effect are, subject to some amendments, based on French legal culture and practices.⁷⁵ Additionally, special provisions sanction the application of customary laws with regard to bedouin and religious minorities in the country.⁷⁶ Islamic religious courts based on the Shariah continue to function in the country, with their jurisdiction exclusively predicated upon matters of personal status as aforementioned, including marriage, divorce, paternity, child custody and inheritance.⁷⁷

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⁷¹ Human Rights Watch, World Report 2015: Syria, available at: <http://www.hrw.org/world-report/2015/country-chapters/syria>.

⁷² Ibid.

⁷³ U.S. Department of State, Country Reports on Human Rights Practices in 2014, Syria, available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236622#wrapper>.

⁷⁴ Library of Congress Country Studies, Syria, The Judiciary, available at: <http://memory.loc.gov/cgi-bin/query/r?frd/cstdy:@field%28DOCID+sy0087%29>.

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

The majority of the legislative provisions in Syria addressing the subject matter of children coming into contact with the justice system are focused on instances where the child may be responsible for the harmful or disputed act. With regard to the assumption of civil or criminal responsibility, protective measures are in place stipulating that a person incapable of acting with discretion cannot bear responsibility for any unlawful acts committed. This is confirmed in the Civil Code under Article 165(1). The Juvenile Delinquents Act affirms that a child may not be prosecuted for any crime committed before they have attained seven years of age.⁷⁸

In respect of matters of juvenile justice, the Syrian system is one based on the best interests of the child.⁷⁹ Such matters are of the sole jurisdiction of the juvenile courts, pursuant to the Juvenile Delinquents Act.⁸⁰ There are both part-time and full-time district juvenile courts,⁸¹ there is also a special division of the Court of Cassation dedicated to juvenile cases.⁸² As proceedings are conducted in secret in the best interests of the juvenile, it is prohibited to publicise or publish any photographs of the juvenile concerned, as well as any transcript of the hearing.⁸³ Juveniles between the ages of 7 and 15 years old can be prosecuted for felonies or misdemeanours but will only be subject to reform measures before the exclusive jurisdiction of the juvenile courts.⁸⁴ Juveniles who have attained 15 years of age are not subject to the same sanctions as their adult counterparts, particularly with regard to the death penalty and life imprisonment, from which they are immune.⁸⁵ The system is structured in such a manner as to accord the juvenile judge extensive discretion to administer reform and corrective measures to the concerned juvenile; the measures listed in the legislation include handing the juvenile over to their family, or to a specialised care organisation, placing them in an ‘observation center’, placing them in a ‘precautionary shelter’, and placing them under monitored probation, amongst other things.⁸⁶ Childhood is divided into three stages: children below seven years of age bear no criminal responsibility whatsoever;⁸⁷ the second stage of childhood covers ages seven to fifteen, although some legal proceedings may be instituted against them, the court cannot administer any sanction against them; the last stage covers children between the ages of 15 and 18.⁸⁸ The latter two categories render the child in question subject to the aforementioned reform measures, which exclude imprisonment as previously stated.⁸⁹ The emphasis on the

⁷⁸ The Juvenile Delinquents Act (n 12), Article 2.

⁷⁹ State party’s report (n 1), para. 223.

⁸⁰ The Juvenile Delinquents Act (n 12), Article 31.

⁸¹ Ibid, Article 32.

⁸² Ibid, Article 33.

⁸³ Ibid, Article 54(a).

⁸⁴ Ibid, Article 3(a).

⁸⁵ Ibid, Article 29.

⁸⁶ Ibid, Article 4.

⁸⁷ Ibid, Article 2.

⁸⁸ State party’s report (n 1), para. 236.

⁸⁹ Ibid, para. 237.

best interests of the child involved are translated into an active role for probation officers, who report to the juvenile courts regularly regarding the juvenile's status and can even suggest the most appropriate corrective measures.⁹⁰ Lastly, again in the future interests of the child, judgments are not to be recorded in a criminal record.⁹¹

Current political situation

It is imperative to conclude this report by mentioning the conflict that has ravaged Syria in recent times. The Syrian Civil War is an ongoing armed conflict that began in 2011 following a spate of uprisings in the region. The revolutionary tide in the country was forcefully crushed by the regime of President Bashar Al-Assad, which triggered armed resistance to his forces. What initially began as a violent conflict between the Syrian government and revolutionary groups has been interjected with the participation of other groups, as well as the heinous rise of ISIS to the east of the country with their own agenda and who have conquered swathes of territory leaving great suffering and devastation in their wake. These horrific events have reduced a large proportion of the country to rubble and exiled a significant proportion of the population as they seek to escape destruction and subjugation.

Needless to say, this state of affairs has surely had a great effect on matters of access to justice for children in Syria.⁹² As aforementioned in part IV.H, the judiciary has close ties with the ruling party, essentially rendering primary legal principles such as the separation of powers and the rule of law non-existent. As such, violations, of which many have been reported, committed by the state's military are treated with impunity and justice remains elusive for victims of these crimes.⁹³ Military officers have the capacity to try civilians in both conventional military courts and field courts.⁹⁴ Whilst military court decisions may be appealed by the civilians implicated to the military chamber of the Court of Cassation, military judges are neither independent nor impartial, being subordinate to military command.⁹⁵ This constitutes a great hindrance to the right of due process affirmed in Article 51 of the Constitution of 2012. It also contravenes Article 54, which states that: “[a]ny assault on individual freedom, on the inviolability of private life or any other rights and public freedoms guaranteed by the Constitution shall be considered a punishable crime by the law”.

Although the UN Office of the High Commissioner for Human Rights has reported

⁹⁰ The Juvenile Delinquents Act (n 12), Article 23.

⁹¹ Ibid, Article 58.

⁹² Please see the UNICEF Syrian Crisis webpage for further information regarding the conflict in Syria and its impact on the children in the region, available at: <http://www.unicef.org/emergencies/syria/>.

⁹³ Human Rights Watch, World Report 2015: Syria (n 69).

⁹⁴ Freedom House, Syria, Rule of Law (n 68).

⁹⁵ Ibid.

on the situation in Syria in recent times,⁹⁶ there does not appear to be any domestic equivalent currently operating in the country. There are some independent non-governmental organisations working on the documentation of human rights violations during this enduring conflict such as the Syrian Observatory for Human Rights,⁹⁷ they are not active in matters of access to justice as such.

This report is provided for educational and informational purposes only and should not be construed as legal advice.

⁹⁶UN OHCHR Report, 15 September 2011, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/159/68/PDF/G1115968.pdf?OpenElement>.

⁹⁷ Further information regarding the work of the Syrian Observatory for Human Rights available at: <http://www.syriahr.com/en/>.