



» EGYPT

Situation report on Violence against Women

1. Legislative Framework

The Egyptian constitution adopted in 2014 makes reference to non-discrimination and equal opportunities (article 9, 11 and 53). Article 11 is the only article that mentions violence against women, stating that: "...The State shall protect women against all forms of violence and ensure enabling women to strike a balance between family duties and work requirements...". Article 11 states the right of women to political representation as well as equality between men and women in civil, political, economic, social and cultural matters. Article 53 prohibits discrimination on the basis of gender, and makes the state responsible for taking all necessary measures to eliminate all forms of discrimination.

Egypt has ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), although with reservations to Article 2 on policy measures and Articles 16 regarding marriage and family life and article 29. The reservation to Article 9 concerning women's right to nationality and to pass on their nationality to their children was lifted in 2008. Egypt has signed but not ratified the Rome Statute on the ICC and is not yet a party to the Council of Europe Istanbul Convention on preventing and combating violence against women.

Articles 267, 268, 269 and 289 of the penal code relating to crimes of rape, sexual assault and harassment fail to address the wave of sexual assault and rape in Egypt following the 2011 revolution. For instance, article 267 of the penal code defines rape as penile penetration of the vagina and does not include rape by fingers, tools or sharp objects, oral or anal rape. The two last forms of rape are defined in Article 268 as «indecent violation». While the penal code re-defined and addressed sexual harassment in the new amendment to Article 306 introduced in 2014, the amendment is insufficient and limited in nature as it only considers sexual harassment a crime if the intent of the perpetrator is to obtain sexual benefits. Further amendments to the anti-harassment law were adopted by the Parliament's legislative committee in 2017. They introduced harsher punishments for perpetrators, including prison sentences of up to one year instead of 6 months, in addition to a fine.

Several human rights organizations convened in 2010 and began working on a draft law amending the provisions of the penal code on sexual violence. This draft law was presented to successive governments in 2010 and August 2013, but was shelved both times.

Women trafficking is criminalized in article 64 of the penal code (as amended in 2010) and abduction of women if

¹ <https://al-ain.com/article/egypt-harassment-parliament>



accompanied by forced intercourse or sexual aggression is penalized by capital punishment according to article 290 of the law (as amended in 2018 ²), yet trafficking is not sufficiently defined in the law. The law does not recognize forced and/or temporary “summer” marriages ³ as a form of trafficking in women. In 2016, a cabinet decree merged the National Committee for Combating and Preventing Illegal Migration (NCCPIM) and the National Coordinating Committee on Combating and Preventing Trafficking in Persons (NCCTIP), with the consequence that local forms of trafficking risk being overlooked as the focus is placed on trafficking in migrants and refugees. Also, in 2016 a law was passed criminalizing illegal migration (82 for the year 2016); however, the anti-trafficking law was not amended accordingly. The National Coordinating Committee for Combating Illegal Migration and Trafficking in Persons (NCCPIM & TIP) is however making an earnest effort to raise awareness about the smuggling of migrants and different forms of trafficking through media campaigns and billboards. A decision was made by the Ministry of justice earlier in 2018 to create tribunals within criminal appeal courts specialized in dealing with trafficking cases. Moreover, later in 2018 the decision expanded to include a survivors’ support fund to rehabilitate and reintegrate trafficking survivors in society ⁴. However, this decision has not yet been enacted.

Domestic violence against women is largely tolerated, and no efforts have been made by the government to combat it. On the contrary, several articles of the penal code can be used to downplay the gravity or even justify this kind of violence. For instance, article 17 can be used to reduce the sentence as an act of mercy, and is often applied in cases of rape and “so-called honor crimes”. Article 60 allows the perpetrator to be pardoned if he acted in “good faith”. This article is mostly used to justify so-called “honor crimes” and domestic violence, considered as “the husband’s right to discipline his wife”. Moreover, marital rape is not recognized as such in the penal code. Since 2016, there have been several attempts to draft a law criminalizing violence against women, including domestic violence. However, although different versions of this law have been prepared by the National Council for Women (NCW) and a coalition of NGOs, none of them has so far been presented to the Parliament. In early November 2018, a draft law on combating violence against women was adopted by MP Nadia Henry. This draft includes articles on domestic violence and marital rape. The draft has not been discussed in the parliament yet.

Although female genital mutilation (FGM) was criminalized in 2008 by virtue of article 242bis of the penal code, the prohibition set out in this article can be circumvented by making reference to article 61, which allows for harmful actions to be taken in order to prevent a greater harm to oneself or another. Medical necessity is therefore used as a reason for performing FGM. Thus, this practice has become medicalized instead of being banned or eliminated.

In 2014, the case of a young girl who died as a result of the intervention has been taken to court, and after an acquittal in first instance, an appeal court sentenced the doctor to two years in prison for manslaughter and three months for performing the FGM procedure, while the girl’s father was given a three-month suspended sentence. In 2016, after a 17-year-old girl died, the law criminalizing FGM was amended to consider this crime a felony instead than a misdemeanor, with a maximum punishment of 7 years in prison. Furthermore, in 2015 the National Population Council has launched a national strategy to eradicate FGM by 2030 as part of Egypt’s commitments towards the SDGs. Despite these efforts, the official campaigns against FGM are not consistent or serious enough to fight FGM. The doctor who has been convicted is still performing FGM in his clinic. Also, law enforcement is not working correctly given the fact that some of them are still affected by their personal opinion and culture that favours FGM.

LGBTIQ relationships are not explicitly criminalized in Egypt. Yet, in spite of this, 75 members of the community and activists were arrested on charges of debauchery and sentenced to six years of prison after waving rainbow flags at a concert in Cairo in September 2017.

2. Political Framework

A national strategy to combat violence against women (VaW) was launched in June 2015 and is set to be implemented over a five-year period from 2015-2020. . The strategy, which was drafted by the National Council for Women (NCW) in cooperation with several ministries, other state and religious institutions, as well as a few NGOs, includes three areas of intervention: prevention, protection, and prosecution and litigation. Following the launch of the strategy, the Ministry of Interior announced an increase in the number of patrols for quick intervention and response to emergency calls

² <https://bit.ly/2B37FYkv>

³ On “summer” marriages and sex tourism see <https://www.state.gov/documents/organization/243559.pdf>, pages 147-48

⁴ <https://bit.ly/2yZn6yo>



regarding VaW, the appointment of more female physicians, the establishment of new sections within police stations to receive victims of violence and assault and the addition of a curriculum on human rights and VaW in the Police Academy. One of the priorities of the strategy is the creation of tribunals that will deal specifically with cases of violence against women, although to date no action has been taken in this regard.

Despite the efforts made, the strategy fails to make the legislative changes needed to combat VaW, such as broadening the definition of rape in the penal code and banning articles 17 and 60 from being used in cases of VaW. It also disregards serious issues such as VaW committed by state actors, as well as collective sexual violence. Furthermore, the strategy was drafted through a nontransparent, non-inclusive process, and does not integrate the recommendations made by independent civil society and women's rights organizations, including the need for it to be crosscutting and to require the cooperation and commitment of the Ministries of Interior, Justice, Health, and Education. The strategy did not include a clear follow up or accountability mechanism for implementation. Moreover, despite the strategy included the establishment of VaW units in police stations, few are created within the security directorates, making access to them extremely hard. It does not clarify the role of NCW regarding sensitive cases such as incest and women's equal inheritance.

Women's rights organisations are also pushing for the development of an action plan for dealing with cases of violence against women for police officers, judicial personnel, and health and social workers. Coordination between these different actors is currently lacking.

In addition, an analysis must be conducted that will enable a successful gender budgeting process to ensure that sufficient resources are allocated for the provision of the needed medical and counseling services, as well as the establishment of shelters for survivors of violence. At present, there is no information available on the amount or percentage of the national budget – if any – dedicated to combating violence.

In 2016, several parliament members made discriminatory and patriarchal statements, indicating the weak political will and efforts in promoting women's rights. For example, an MP advocated in favor of FGM while others voted against having equal punishment for men and women in adultery arguing that women bear the responsibility in any case.

In 2017, the Central Agency for Public Mobilization & Statistics (CAPMAS) published a study on VaW and women's role within the family. The study included statistics about women's contribution to the family income, prevalence of forced marriage by age, access to education, FGM, decisions on contraception, and domestic violence. The study also addressed the economic cost of VaW and its effects on the national economy ⁵.

Despite the state bragging about female ministers percentage in the cabinet, women are still deprived from accessing judiciary positions. Only 0.5% of judges in Egypt are females without a clear vision how this percentage is going to increase. According to the national strategy to empower women 2030 ⁶, female judges' percentage should reach 30% by then. The strategy fails to mention how this percentage is going to increase especially that the State Council is refusing to appoint female judges.

3. Protection framework and access to justice

Protection systems and counselling, psychological support and empowerment services

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There are eight shelters for battered women affiliated to and under the supervision of the Ministry of Social Solidarity and run by the National Council for Women. However, as mentioned above, the shelters are in great need to re-formulation.. In addition, the employees of these shelters are not well trained in matters related to gender and violence against women or case management. Shelters are more of prisons. The Egyptian government supervises the shelters but only provides limited resources and commitment. No accurate information on the sources and amount of funding provided by the government is available. Most functioning shelters are run by NGOs and CSOs and are mainly funded

⁵ <https://bit.ly/2JYQNEF>

⁶ <https://bit.ly/2zQ61EL>



through bilateral cooperation. However, it is very difficult for NGOs to establish a shelter, due to the complex set of security considerations shelters are subjected to. Although some women's organizations provide services and outreach programmes, as well as legal and psychological support for abused women, these are not sufficient to meet the need for protection, as the country lacks the institutions to build an effective system.

There are no legal measures to ensure the protection of battered women in cases of domestic violence. No emergency prohibition orders or protection and restraining orders exist that could allow the authorities to order the perpetrator of domestic violence to leave or stay away from the victim.

The shelters are extremely hard to access and require ID papers that women who escaped violence usually do not have. They also do not accept women subjected to incest or rape, or pregnant women and they do not allow children above the age of 12 to stay with their mothers which is rejected by most mothers seeking refuge.

Prevention of violence and the training of professionals working with victims

There is little educational material on gender equality and the need for mutual respect, and the existing material does not include specific and clear definitions of violence against women. Furthermore, the material is often culturally framed and lacks a human rights perspective. No systematic training on effective responses to violence against women is provided to police officers, judges, lawyers, and health, and social workers. The lack of training on how to deal with victims of all forms of sexual violence is particularly problematic in the case of forensic medical personnel, as it leads to the loss of important evidence and the non-provision of emergency contraception in case of rape. Similarly, the lack of training of law-makers, prosecutors, and judges on matters pertaining to violence compromises access to justice for women victims of violence. The Egyptian government is currently trying to introduce such trainings, but it lacks the knowledge needed to conduct them and has so far refused to involve civil society organisations with expertise in this field.

There are a few official governmental campaigns to combat violence against women, yet the campaigns are not inclusive of all forms and still abide by cultural and patriarchal appropriation of the issue. However, civil society has carried out several campaigns aimed at stopping different kinds of violence against women. Special efforts have been made to stop the abuse and gang rape of women during peaceful demonstrations. These campaigns often target survivors and the general public.

Access to a non-discriminatory judicial and police system

The Egyptian government in general fails to address the rights of survivors of VaW and guarantee their protection after having reported a crime, as well as to implement the law to ensure that such crimes are not repeated. Although, in principle, women can file a complaint in court in case of gender-based violence, in practice such cases are often stalled either by the police or by the general prosecutor. A woman's testimony is equal to that of a man before all courts except for the Personal Status courts, where her testimony is worth half that of a man.

There are many cases of violence carried out by state agents against women in Egypt. However, this is denied by both the government and the NCW, with the consequence that women are unable to report such cases to any judicial instances, and impunity for such crimes is allowed to spread. As a matter of fact, violence against women human rights defenders and activists is part of attempts by successive governments to expel women from the public sphere. The documented violations include arbitrary detention, beatings, dragging, attempted strangling, sexual assault and violence, threats of rape during detention, and sexual insults.

If a victim withdraws her complaint, the judge can theoretically decide to continue the prosecution. However, the court usually shelves or continuously postpones the case, which is classified as "administratively reserved". According to the law, female defendants who do not have a lawyer should be provided with one appointed by the court. This does happen,

⁵ http://eeas.europa.eu/human_rights/guidelines/women/docs/16173_08_en.pdf



although not of good quality. A number of NGOs therefore provide free legal assistance to women, but due to shrinking and closing spaces for civil society in Egypt, providing these services make NGOs more visible which puts them under threats from security.

Women victims of violence are generally treated equally to the perpetrators of crime in police stations. Moreover, survivors experience social stigma, particularly in the case of female rape-victims., In particular, victims cannot testify without having to face their aggressor, as they are required to identify him. This put the survivors and their families in great danger as there is not any protection mechanisms from the perpetrators' families or any protection foe witnesses and whistleblowers.

4. **Combating violence against women in the framework of European Union – Egypt cooperation**

Violence against women is a priority for the EU, as demonstrated by the fact that there are specific EU human rights guidelines on VaW. The EU's position for the EU-Egypt Association Council meeting of 25 July 2017 represents the position of the 28 Member States. This document outlined that the EU welcomed "the Egyptian government's objective of promoting women's rights and social and economic empowerment as illustrated by the designation by the Egyptian government of 2017 as «the Year of the Egyptian Women» and urge[d] Egypt to seize this opportunity to address concerns about recent restrictive measures against women's rights organisations and defenders." The EU-Egypt Partnership Priorities were adopted at this meeting. They will orient the partnership during the period 2017-2020. Although the document does not include enhancing women's rights among its priorities, it provides for a focus on women to be mainstreamed into the EU-Egypt partnership, with the aim to empower women and promote their economic and political participation. Further, the EU reaffirms its commitment to sharing its experience in fostering gender equality and fighting gender-based discrimination.

The Partnership Priorities provide the policy orientation for EU funding to Egypt outlined I the Single Support Framework. It allocates between 432,000,000 and 528,000,000 EUR to Egypt for the period 2017 – 2020. It includes a focus on VaW under its objective 2 and on gender equality and women empowerment under its objective 3, both these objectives represent 50% of the whole amount that will be allocated, but these will be channeled through government institutions. Another 10% of the money will go to civil society to implement the priorities of the Single Support Framework. In the current repressive Egyptian context, independent NGOs, including feminist ones, are struggling to keep their level of work afloat and it is unclear how the EU will address this problem if they cannot find grantees that can implement projects.

5. **Recommendations to the Egyptian government:**

- Creating a conducive environment for the work of civil society organizations through a fair legal system that guarantees the freedom of civil society work and removes restrictions imposed on its organizations and actors;
- Restoring confidence in the role of feminist/womanist movement for achieving the demands of women and defending their rights in both private and public spheres;
- Promote gender equality and combat violence against women in the public and private sphere through legal reform and societal awareness;
- Reform the penal code to punish all forms of violence against women and ensure its implementation to guarantee women's access to justice;
- Reform the personal status laws including all discriminatory articles to ensure gender equality and better access to justice
- Reform the anti-trafficking laws to include and focus on local forms of trafficking in women
- - Provide independent oversight for protection mechanisms as well as rehabilitation and empowerment programs to protect survivors of VAW.



- Revise the national strategy on combatting violence against women from June 2015 to include the legislative changes needed to combat VaW;
- Investigate sexual violence committed against women since November 2012 and prosecute those responsible, especially focusing on violence committed during demonstrations and protests since November 2012, as perpetrators were prosecuted in one occasion only, despite the consistency and repetitiveness of these crimes;
- Enact all strategies that the state has committed to fulfill and publish periodic reports on the achievements as well as create a accountability mechanism to follow up on the implementations of the strategies.
- Enact legislation requiring the regular collection of statistical data and research to ensure an adequate knowledge base for effective implementation and monitoring with data being available to civil society organizations ;
- Act in accordance with the standards of the UN Declaration on Human Rights Defenders and introduce national legislation to protect them from state and non-state actors, to recognize and enable their work;
- Create a women's human rights defender focal point in the relevant ministries, the National Council for Women and the National Council for Human Rights to address the violations committed against women human rights defenders and facilitate their work;
- Ensure full protection of survivors of all forms of violence against women through shelters and other protection mechanisms, such as hotlines and emergency measures protecting women in situations of immediate danger;
- Provide independent oversight of protection mechanisms as well as rehabilitation and empowerment programs to protect survivors of VaW.
- Reform and amend the NGOs law in order to create a space for feminist and civil society organizations specialized in combating VaW to work freely.

Recommendations to the EU:

- Ensure the implementation of the EU guidelines on Violence against women and girls in the framework of its relations with Egypt;
- Support measures that comprehensively address VaW in Egypt, including legislative changes and the work of the Egyptian independent feminist organizations;
- Ensure the development of a comprehensive country gender profile on Egypt, including data on the subject of Violence against Women.
- Ensure the implementation of the Egypt Single Support Framework, particularly with regard to supporting Egypt's efforts to fight VaW and to foster gender equality and women empowerment;
- Ensure that the money allocated to civil society working on VaW from the Single Support Framework goes to independent NGOs and is not reallocated to government programmes or GONGOs.
- Ensure that the bilateral agreements between Egypt and EU include provisions on combating VaW, promoting Human and women's rights, and acknowledge the work of W/HRDs.
- Create long-term projects that can help civil society survive and operate with flexible measures due to closing and shrinking spaces.

