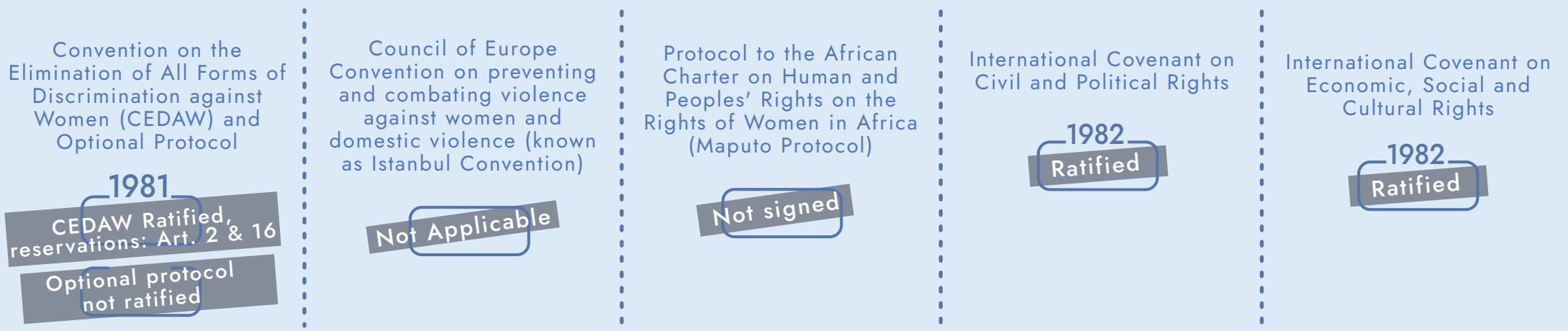


# Situation report on discriminations against women in Egypt

March 2023

## INTERNATIONAL AND REGIONAL INSTRUMENTS



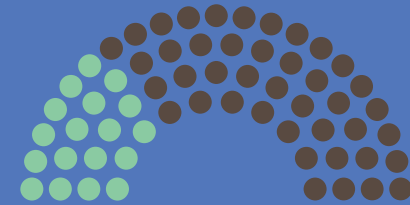
## MAIN OBSTACLES TO GENDER EQUALITY DE JURE AND DE FACTO



# Did you know?

27,70%

Proportion of seats held by women  
in national parliaments

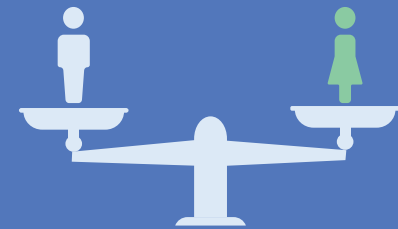


## RECOMMENDATIONS

- **Allow independent Civil society organisations** to work freely and to be able to help in advancing the status of women in different fields.
- **Review and withdraw reservations** to articles 2 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- Endorse a **civil unified personal status law**, applied to all, regardless of their religious beliefs and not depending on religious laws.
- **Revise labour laws** and related health and social insurance laws to include new provisions and protections, specifically to cover those working remotely, with flexible working hours and the related rights and duties of workers and business owners.
- Issue a **comprehensive law to combat gender-based violence** and establish the commission on combating discriminations as stipulated in the constitution.

Unequal  
rights

Inheritance rights for  
widows and daughters



15,39%

Female labour force participation



# 1. LEGISLATIVE FRAMEWORK

## International Conventions

Egypt was the first Arab country to ratify the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1981. However, Egypt put several reservations on article 2 on policy measures, articles 9 and 16 regarding marriage and family life, in addition to a general reservation to the whole convention stating that Egypt will only follow CEDAW in so far as it does not conflict with Sharia or culture. The reservation on article 9 concerning women's right to nationality and the right to pass their nationality to their children was lifted in 2008. Egypt has neither signed nor ratified the optional protocol of CEDAW. The last report was submitted by Egypt to the CEDAW committee in 2020.

Egypt has signed but not ratified the Rome Statute of the International Criminal Court and is not yet a party to the Council of Europe on preventing and combating violence against women (the so-called Istanbul Convention). Egypt has ratified the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights in 1982 and all the international conventions on human trafficking and slavery without any reservations. Egypt did not sign the Protocol to the African Convention on the Rights of Peoples (Maputo Protocol).

The latest Universal Periodic Review (UPR) was in 2019 where Egypt received 372 recommendations from 133 countries.

Egypt has accepted 270 of these recommendations to be implemented during the current reporting period.

## Constitutional Equality

The Egyptian Constitution adopted in 2014 makes references 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.

## Civil and Familial Rights

The Egyptian Personal Status Law (PSL) undergone several developments through attempts to reform it between 1920 and 2005<sup>1</sup>. The PSL no. 25 of 1920 was promulgated in Egypt on maintenance and alimonies and it was later amended by Law No. 25 of 1929. Afterwards, the following amendments were issued on specific topics within PSL: Law No. 100 of 1985 on amending alimonies, Law no. 1 of 2000 on Khul' and other procedural amendments and finally Law No. 4 of 2005 regarding the amendment of the age of custody.

Despite all these amendments, the discriminatory provisions against women are still blatant within the law including, but not limited to, the following examples:

- Concerning **guardianship**: the law still doesn't consider women as citizens with full rights. The natural/full guardianship is the right of the father but not the mother. Even after his death, full guardianship is granted to the paternal grandfather. The natural guardian can authorise the mother to have a financial or educational guardianship over the children or through the court, but this is not an automatic right.
- Concerning **marriage**: According to Law No. 1 of 2000<sup>2</sup>, the Court may accept requests to examine whether a female needs the consent of her guardian to enter into a marriage contract, which is contrary to Article 11 of the Constitution with regard to gender equality and human rights principles that recognise women as full citizens. Art. 9, para. 7 of the law states "The District Courts shall have jurisdiction over matters relating to the guardianship over persons, etc., [ ], and the authorization of the marriage for those who don't have guardians." Unregistered/unofficial marriages, including Urfi marriages, are not legally prohibited, yet women don't have any financial rights guaranteed in the marriage or after divorce.
- Concerning **divorce**: According to the amended PSL Law No. 100 of 1985<sup>3</sup>, "a man has the right to verbally divorce his wife up to three times, and such divorce should be documented by the official registrar within 30 days". However, women are required to pass through the court for divorce and have to prove at least one of the following reasons: 1) disease including (mental illness or impotence); 2) absence of financial support;

3) physical absence or imprisonment; or 4) malicious behaviour such as "physical or psychological abuse" (Articles 7 to 11). The problems of verbal divorce are manifest in cases where the divorce was not documented at the registrar's office. In this case, women find themselves in a dilemma as they are divorced according to religion, yet married before the law. In such a situation, women carry the burden of proving divorce while facing the lack of entitlement to any financial rights outside of it.

- Regarding **child custody**: According to Article 20/1 of Decree-Law No. 25 of 1929, as amended by Law 100 dating to 1985<sup>4</sup>, the mother loses custody of her children if she re-marries after divorce. However, the father has the right to re-marry and retain the custody of his children which is a clear discrimination against women. According to the same article, women are granted custody until the child reaches the age of 15 or until they re-marry. For this reason, many mothers choose not to remarry so as not to lose their children. However, when the child is 15 years old, the mother is forced by law to leave the house if it was provided by the father. In many cases, women do not have the resources nor the shelter to relocate. Furthermore, a Christian mother who was married to a Muslim or a Christian who converted to Islam, loses the custody of her children when they reach the age of 7 despite the availability of the conditions of custody. The reason is that some judges fear that the mother will persuade and convert the children to a religion other than Islam.

- Concerning **testimony**: Although the full testimony of women is recognised before the Penal Courts, under the PSL, the testimonies of two women are equal to one man's testimony in the marriage contract or before the Family Court.

In March 2021, the cabinet submitted a proposal to amend the Personal Status Law for Muslims. However, the cabinet's proposal lacks a comprehensive philosophy that reflects the principles of equality and justice as it does not take into consideration any of the recommendations submitted by CSOs, especially CEWLA. The draft law continued to enact discrimination against women such as granting men a unilateral right in divorce, women's requirement to have a guardian to contract marriage, maintaining unfair guardianship conditions for women with regard to their children.

## Political Rights

**Women and men have the equal right to vote, and women are allowed to run for elections** as long as they meet the requirements for the entity they are running for. According to Egypt's Constitution of 2014 (amended in 2019)<sup>5</sup>, at least 25% of parliamentary seats should be assigned to women (article 102) and at least 25% of the municipalities' seats should be assigned to women (article 180).

## Sexual and Reproductive Rights

**Abortion is not legal in Egypt at all except when there is a danger to the mother's health** (articles 261 through 263). However, no penalty is imposed on attempted miscarriage (article 264)<sup>6</sup>.

**Sexual freedom for non-married heterosexual people is not penalised** by the law. However, the public display of affection is criminalised for all couples, married or unmarried. According to the penal code article 278, "Whoever commits in public a scandalous

act against pudency shall be punished with detention for a period not exceeding one year or a fine not exceeding three hundred pounds".<sup>7</sup>

As for **same sex relations**, they are not criminalised by the law, meaning that "homosexuality" as a concept is not penalised. However, such relations can be legally characterised as "debauchery", "prostitution", or "disturbing the common law".

## Laws on Gender-Based Violence/Violence against Women

Despite the submission of a **comprehensive draft law for combating violence against women** to the Parliament in 2018, which was developed by several organisations, and the State's commitment in the National strategy to empower women to issue a comprehensive law to combat violence against women (VAW), at the time of writing this paper, the law has never been discussed. The draft law already amassed the 60 signatures needed from Members of Parliament pending discussion. However, it has been side-lined ever since.

Furthermore, there are no laws to protect witnesses, whistle-blowers, and experts especially in sexual violence cases. The amendments to law 117 for the year 2020 on protecting the data of witnesses and whistle-blowers lacked proper mechanisms to ensure the full protection of data, which resulted in exposing the data of victims and witnesses of well-known cases, such as Fairmont, to media and perpetrators.

## Economic and Social Rights

**The Labour Law prohibits discrimination in wages on the basis of gender, origin, language, religion or faith.** This law stipulates employment without discrimination when working conditions are similar. It also imposes a fine on employers or their representatives who breach these obligations.

Regarding **domestic workers** and according to the government, a draft law was submitted to the Parliament concerning the regulation of domestic labour to protect workers' rights. The government stated that the parliament was also discussing amendments to the Labour Law to cover all outstanding issues. However, no strong measures were taken to pass these laws, and no political will to do so has been demonstrated.

## Vulnerable and/or Marginalised Populations

There are **no special provisions for the most vulnerable categories of women in most national laws.** There are a few mentions of people with disabilities in the labour law, but not necessarily women. In general, the current laws are mostly gender blind without proper integration of gender concepts. For example, the provisions of the Egyptian Labour Law do not apply to domestic workers or female agricultural workers which violates their rights in relation to legal protection. However, both these categories have recently been included in the Social Pension Law.<sup>8</sup>

Also, the law on the Rights of People with Disabilities (law No. 10 for the year 2018)<sup>9</sup> stipulates that at least 5% of the employment force of any entity having more than 20 workers should be people with disabilities. The laws apply to all people without any gender considerations.

## 2. DE FACTO DISCRIMINATION

### Civil and Familial Rights

Regarding the amendment of the PSL, the proposal submitted by the cabinet to amend the Personal Status law for Muslims ignited a campaign called **#Guradianship\_is\_my\_right** that conquered social media in rejection of the proposal. Furthermore, the proposal on the Unified Christian Family Law was not presented to any organisation that works on this field and it was drafted in utter secrecy without consulting any stakeholders.

In practice and law, the discriminatory provisions against women are still blatant within the law including, but not limited to, **the following examples:**

- On **guardianship:** The natural guardian can authorise the mother to have a financial or educational guardianship over the children through the court, but not as an automatic right. Without such authorisation, women cannot submit school applications for her children or transfer them to another school. As for dealing with banks, a mother cannot open bank accounts for her children as a guardian; she can do so as a (gift) to them. Mothers do not have any control over their children's accounts even if the money

deposited is theirs.

- On **alimony**: While women are granted post-divorce alimony according to the law and are able to file cases to get money owed, the application of the law is not easy. The alimony case can take around one year before court for the plaintiff woman is able to get a verdict. Even after the verdict, she will need to go through another process to ensure that the money is delivered to her and that she has access to it. If the husband still does not pay, the woman has to file a criminal case against him to enlist him as a debt evader so that police can intervene. Alimony also can be accessed through the Nasser Social Bank (NSB). Although the resources of the Family Insurance Fund, operated by NSB were increased by Resolution No. 10515 of 2015 by imposing higher fees on identification papers and documents, NSB -responsible for paying pensions and alimonies - only pays an amount of 500 pounds as a maximum alimony even if the full amount of alimony stipulated by a court order is higher<sup>10</sup>.
- On **divorce**: Since 2000, according to Law No. 1 of 2000, women may obtain Khula'<sup>11</sup> without giving reasons in exchange for returning the dowry and waiving all her financial rights. However, in many instances documented by CEWLA and other CSOs, some judges refuse to grant women Khula' until they provide reasons and proofs. As for Christian Egyptians, there is a contradiction in court orders regarding divorce. Some judges base their decisions on 2008 bylaws<sup>12</sup> that only grant divorce for 3 reasons (adultery, changing religion and death), while others refer to 1938 bylaws<sup>13</sup> that grant 9 bases for divorce. The confusion comes from the fact that the late Pope Shenouda III replaced the 1938 bylaws with the 2008 bylaws, yet some courts still refer to the 1938 bylaws by choice. However, if a divorce

is obtained from the court, the church does not recognise this divorce and therefore does not allow permission to remarry, leaving Christians without any real opportunities to start a new life, especially given that Egypt does not have a civil marriage law for people of the same religion.

- On **marriage**: If the husband destroys the customary marriage document (if such a document existed), the wife may be accused of having extramarital affair. Also, because the law requires official registration of the marriage to issue birth certificates for children, men may refuse to register the child or the marriage leaving women seeking judiciary interventions that can take years to prove the paternity of the child.

## Political Rights

As of March 2022, women are finally able to apply for judiciary positions in the State Council and general prosecution as equals to their male counterparts. However, for parliamentary elections, and despite the fact that women's representation should not fall below 25% of the parliament's capacity, elected women are following government ideas, excluding all other women who could be considered as opposition with more progressive ideas, not allowing for diversity in points of view.

It is important to mention that the municipalities' elections have not taken place yet despite the fact that they were supposed to be held in 2014 (the last municipalities elections took place in 2008).

## Sexual and Reproductive Rights

While women have access to public health clinics and hospitals, the **treatment of marginalised and poor women is reprehensible in the free sections of the public hospitals**. Women are giving birth without any privacy, without anaesthesia, and partners are not allowed to assist.

Although abortion is still illegal, it is performed by some medical staff (doctors or nurses) in clandestine conditions. This can lead to unsafe abortions for those who do not have the means to afford safe abortions.

Comprehensive sexuality education has not yet been put in school curriculums. However, there are some scattered topics on Sexual and Reproductive Health and Rights (SRHR) covered in science, religion, or ethics curricula.

Although sexual freedom for non-married heterosexual people is not penalised by the law, there are several laws that can be used to criminalise such acts. For instance, law No. 10 of 1960 on combating prostitution can be used against persons who rent a property to an unmarried couple, claiming that the person is facilitating prostitution.<sup>14</sup> Furthermore, if a woman is having a relationship with a man and she is arrested, she can be charged with prostitution crimes under the same law.

## Laws on Gender-Based Violence/Violence against Women

As for visible policies on integrating gender perspectives into all legislations, Egypt has issued several strategies committing itself to enhancing women's status, such as the National Strategy for the empowerment of the Egyptian women 2030<sup>15</sup> and the national strategy for combating violence against women.<sup>16</sup> However, both strategies have failed to add or integrate a gender perspective to the legal system so far. The national strategy for combating VAW ended in 2020 without achieving its goals and indicators. The main challenge in applying the law, especially in violence cases, is that culture supersedes the law no matter what. Furthermore, there are no tools to guarantee the law itself or its application.

Despite the fact that Egypt has harshened the sentences on **Female Genital Mutilation (FGM)**, the reporting rates are still very low compared to the percentage of women and girls who are subject to this violation (87%)<sup>17</sup>. The lack of the State's stakeholders addressing the cultural causes of FGM has led to a low reduction of FGM percentages, compared to the efforts exerted and national strategies' indicators.

The same occurs when it comes to **sexual harassment reporting**. While the rates of reporting are increasing, women are still facing stigma and hardships in doing so. In rape cases, women are asked to report in detail what they have suffered, repeating it every time they meet a new officer, prosecution agent, or medical staff. No mental health support is provided and even medical staff are not



trained to deal with sexual harassment or rape cases, which exposes survivors/victims to secondary victimisation without them even knowing.

## Economic and Social Rights

Although the Labour Law prohibits wage discrimination on the basis of sex, **imposed penalties are extremely weak** (a fine of no less than EGP100, and no more than EGP500) which encourages non-compliance on the part of employers.

According to the MOSS 2014-2021 achievements report, the number of families benefiting from cash support programs increased to reach 3.8 million families (encompassing more than 14.1 million persons) in 2021.<sup>18</sup> However, according to this analysis, cash support programs covered only 45% of poor families in Egypt in 2021. The average monthly amount for each family (19 billion/3.8 million families/12 months) was equal to approximately EGP416 per family, which is less than the extreme poverty line per individual estimated at EGP490 according to the 2017/2018 income and expenditure research.<sup>19</sup> According to the Minister of Social Solidarity, 74% of the cash support program beneficiaries (Takaful and Karama) are women<sup>20</sup>. While this program is being portrayed as an economic support to women, the fact that they receive such a restricted and insufficient amount of money is humiliating.

As for the health sector, the government mentioned that “the health sector witnessed an increase in public spending allocations, as they amounted to 3% of GDP...”. In fact, the government modified its definition of spending on health to inflate the value of certain

expenditures and hide the reality of austerity. For example, the government listed spending on drinking water and sanitation under the health budget. It calculated spending on budget interests within health spending, where each sector is charged a share of interest payments according to its share of total budget expenditures.<sup>21</sup> If we use the earlier definition of health budget used until 2019/2020 on the 2020/2021 budget, health expenditure as percentage of GNP would only be 1.5%.<sup>22</sup>

As for the **health insurance**, the government responded to the CEDAW committee’s List of Issues (LOIs) saying that “the country has taken major strides by issuing the Comprehensive Health Insurance System Law which compulsorily covers all citizens without discrimination, to be put into force over six stages until 2032”. The 2014 Demographic and Health Survey (DHS) reported very poor health insurance coverage, particularly for women from the poorest groups who were or had been married (currently married/divorcee/widows/separated) . Only 2.7% of women in the poorest fifth were covered by health insurance, compared to the wealthiest fifth of the same sample who enjoy 17.5% coverage.<sup>23</sup> Only 8% of married women were included in some kind of health insurance scheme. Despite the fact that these statistics are old and not comprehensive, it gives a general idea about the main gaps and challenges. It’s crucial for the state to allow access to such information based on level of income for the entire population. The General Health Insurance Agency did not provide gender-disaggregated data in the 2017 survey.

The lack of data on communities at risk, including women and people living in poverty, is concerning, especially against the

backdrop of the pandemic that is worsening existing access gaps and inequalities. The risk of losing health insurance in the aftermath of the pandemic increased for everyone insured via their employer, as job loss and unemployment grew. Women, specifically, were more prone to be driven out of the job market during the pandemic due to multiple factors of inequality in the labour market<sup>24</sup> as well as their disproportionate responsibility for childcare, elder care, and other forms of domestic unpaid labour.<sup>25</sup> This places them at a higher risk of losing health insurance.

## Vulnerable and/or Marginalised Populations

There appears to be a limited recognition of the need for enhanced prevention and/or support for vulnerable groups of women such as young women, refugee women, women in a situation of displacement, migrant women, women with disabilities, women in prostitution/sex work, LBT women, and rural women.

Due to inequalities created by the law, women find themselves in disadvantaged positions when, for example, they are displaced via divorce laws, or when accused of prostitution when engaging in relationships outside of marriage.

There is a shortcoming in legal protection from gender-based violence, as the national strategy for combating VAW ended in 2020 without achieving its goals and indicators.

The **LGBTQ+ population** is not sufficiently legally protected, especially taking into account that homosexuality can be declared “debauchery”, “prostitution”, or “disturbing the common law”. There

is a lack of legal attention paid to refugee and migrant women. Regarding domestic workers, they are excluded from the Labour Law. Consequently, they have no formal or legal labour rights; hence, they are not protected from any work-related dangers. For decades, they were also excluded from social and health insurance or pensions until they were finally the new social insurance law 148 was issued for the year 2019 which included them under the irregular labour section<sup>26</sup>. They are also vulnerable to trafficking, sexual exploitation, and are subject to long hours and inhumane conditions. Essentially, some are subjected to a form of slavery.<sup>27</sup>

## 3. RECOMMENDATIONS

### To the State in Egypt:

- Allow independent CSOs to work freely in order to be able to help in advancing the status of women in different fields.
- Review and withdraw reservations to articles 2 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).
- Endorse a civil unified personal status law, applied to all people regardless of their religious beliefs and not depending on religious laws.
- Revise labour laws and related health and social insurance laws to include new provisions and protections, specifically to cover those working at a distance work, flexible working hours and

the related rights and duties of workers and business owners.<sup>28</sup>

- Issue a comprehensive law to combat gender-based violence and establish the commission on combating discriminations as stipulated in the constitution.

## To the EU/UN and other international institutions:

- Ensure full participation of independent CSOs in discussions and decision making processes.
- Follow up on the Universal Periodic Review (UPR) and CEDAW recommendations that Egypt has accepted and promised to achieve.
- Ensure that bilateral agreements are respectful and aware of women and gender rights.
- Follow up on monitoring and evaluation of the national strategies.

## ENDNOTES

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