

fidh



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EGYPT KEEPING WOMEN OUT

**FIDH, NAZRA FOR
FEMINIST STUDIES,
NEW WOMEN
FOUNDATION AND
THE UPRISING
OF WOMEN IN
THE ARAB WORLD**

**SEXUAL VIOLENCE
AGAINST WOMEN IN
THE PUBLIC SPHERE**

EGYPT: KEEPING WOMEN OUT

SEXUAL VIOLENCE AGAINST WOMEN IN THE PUBLIC SPHERE

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As the world focuses on political developments, violence against women continues unabated. Attacks against women protesters in Tahrir Square threw the issue of violence against women into the public spotlight. Yet, sexual harassment and assault is a long-standing and systemic problem in Egypt presenting major obstacles to women's participation in public life. These crimes are met with almost complete impunity. Successive Egyptian governments have failed to address violence against women, with serious implications for women's participation in the political transition of their country.

On 30 June 2013, masses of Egyptians took to the streets, within and outside the capital, calling for the removal of President Mohamed Morsi. Since the current regime came to power on 3 July 2013, attacks against women demonstrators have continued. Between 3 and 7 July 2013, more than 85 cases of sexual assault, including several cases of rape, were perpetrated by mobs in and around Tahrir Square. On 25 January 2014, a mob attack against women protesters in Tahrir was aired live on television, as cameras were filming a protest. There have also been reports of sexual assault of women protesters by the police and security forces. On 16 August 2013, when security forces raided Al-Tawheed Mosque, over 20 women were assaulted by officers from the Special Forces Unit. On 26 November 2013, police violently dispersed a protest in front of the Shura Council in Cairo, arresting and physically and sexually assaulting women protesters.

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Since the fall of the Mubarak regime, numerous attacks on women participating in demonstrations have been reported. In the early days of rule by the Supreme Council of the Armed Forces (SCAF), women who were arrested by the army were forced to undergo “virginity tests” and the first reports of rape by mobs in Tahrir Square emerged. Under the presidency of Mohamed Morsi, cases of sexual assault were systematically reported during mass protests in Tahrir. Survivors and witnesses reported the same pattern: tens of men surrounded the survivors, tore-off their clothes and groped their bodies. Some were raped by multiple perpetrators, who were often armed with sticks, blades and other weapons. Security forces failed to intervene to protect female protesters, prompting citizen movements to set up their own security patrols.

Several courageous women have spoken out about the attacks and have lodged criminal complaints. However, as of March 2014, not a single perpetrator had yet been brought to justice.

These attacks take place against a backdrop of sexual harassment and assault on a massive scale in the streets and the workplace. According to a survey by UN Women, released in April 2013, 99.3% of Egyptian women reported having been sexually harassed, with 91% saying they feel insecure in the street as a result. One of the effects of this violence is to impact on women's freedom of movement and right to participate in public and political life.

“According to a survey by UN Women, 99.3% of Egyptian women reported having been sexually harassed, with 91% saying they feel insecure in the street as a result.”

4 There is no official data on crimes of sexual violence but there is a widespread perception that harassment and assault are more pervasive than ever, fuelled by a general breakdown in law and order. On the other hand, it is clear that – as a result of the courage of survivors who have spoken out and the actions of certain civil society organisations – sexual violence is much more widely spoken about and recognised as a problem.

“When the media shines a spotlight on something, people think it's worse, but [sexual harassment] has always existed before the revolution.”

Mostafa Kandil, OpAnti-SH, May 2013

Violence in the public sphere has been an ongoing problem under successive political regimes. In 2010, the UN Committee on the Elimination of Discrimination Against Women (CEDAW Committee) expressed serious concern that, “violence against women in all its forms has increased, both in the private and public spheres”. The Committee pointed to the “absence of a holistic approach to the prevention and elimination of all forms of violence against women”, observing that “such violence would appear to be socially legitimised and accompanied by a culture of silence and impunity”.

The culture of impunity prevails today. Most cases go unreported: survivors are often dissuaded from making complaints for fear of social stigma, a lack of available response services and the perceived futility of reporting as a result of weak administration of justice. The few that are recorded rarely result in successful prosecutions.

Impunity in turn leads to tolerance of violence against women and a tendency to blame survivors rather than perpetrators. This discourse has been promoted by political representatives, as well as the media.

The link between pervasive violence and the structural discrimination against women enshrined in Egypt's laws cannot be ignored. Addressing violence against women requires political will to bring about wide-ranging reforms to the justice system as well as to eliminate discrimination against women in law and practice.

In 2010, the CEDAW Committee urged the Egyptian government to “give priority attention to combating violence against women and girls and to adopt comprehensive measures to address such violence”. Such measures should include “the expeditious adoption of a comprehensive law criminalising all forms of violence against women, including domestic violence, marital rape, sexual violence, sexual harassment, institutional violence and crimes committed in the name of honour”. They should also include, “the development of a coherent and multi-sectoral action plan to combat violence against women”. These recommendations remain unimplemented.

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In January 2014, a significant step was taken with the adoption of a new Constitution which contains, for the first time, a provision on fighting violence against women. Urgent measures are required to ensure that it does not remain words on paper.

The government must recognise that sexual violence is a serious problem. It must intensify efforts to prevent violence, protect survivors and investigate and prosecute perpetrators. Steps must be taken to address violence against women in a comprehensive way. These measures are not only crucial to protect and promote the right of women to lead lives free from violence, but are also fundamental to enabling women's participation in defining Egypt's future.

METHODOLOGY

This report is based on the findings of an investigation into violence against women in the public sphere in Egypt, conducted by FIDH, Nazra for Feminist Studies, the New Woman Foundation and the Uprising of Women in the Arab World.

The information in this report was gathered through interviews with women, NGOs, governmental officials and international organisations during an investigation in Cairo, Port Said and Alexandria in May 2013 and research continued until March 2014. The authors spoke to survivors of sexual violence, witnesses, lawyers, government representatives including the Ministry of Justice, officials from the Ministry of Interior and the Office of the Public Prosecutor, the Head of the Shura Council Human Rights Committee, medical practitioners specialising in gender-based violence, representatives of political parties and local and international organisations and initiatives involved in promoting women's rights.

This report sets out cases of rape, sexual assault and harassment documented by the investigation, as well as by other human rights and women's rights organisations and grass-roots initiatives. It analyses some of the root causes behind such violence and highlights the responsibility of the state in preventing violence against women, prosecuting perpetrators and protecting survivors.

FIDH, New Woman Foundation, Nazra for Feminist Studies and Uprising of Women would like to thank all those who agreed to be interviewed. A follow up mission in 2014 will discuss the findings and recommendations of the report with the Egyptian authorities.

For reasons of personal safety and confidentiality, the names of some of the women mentioned in this report have been changed.

TERMINOLOGY

In 1993, the United Nations set out the first official and comprehensive definition of violence against women with the adoption by the General Assembly of the Declaration on the Elimination of Violence Against Women. According to the Declaration, “violence against women” means “any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”. It includes violence in the family, in the general community and violence perpetrated or condoned by the state. This definition is reiterated in the Platform for Action adopted by the Fourth World Conference on Women in 1995. Article 1 of the Declaration states:

“Violence against women shall be understood to encompass, but not be limited to, the following:

1. Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non- spousal violence and violence related to exploitation;
2. Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
3. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.”

Declaration on the Elimination of Violence Against Women, Article 1

The UN Committee on the Elimination of Discrimination against Women (CEDAW) General Recommendation 19 defines gender-based violence as: “violence directed against a woman because she is a woman or which affects a woman disproportionately. It includes physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.”



استور
مصر ليس
استور
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استورنا

استور
الاخوان
باطل

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EGYPT

KEEPING WOMEN OUT



1. VIOLENCE AGAINST WOMEN IN PUBLIC SPACES

1. Violence against women in public spaces

1.1 Violence targeting women protesters

10 Since the 2011 revolution in Egypt, a surge of violent sexual attacks on women has reinforced the message that women do not have a place in the public sphere. Despite the alarming rate of rape and sexual assault around Tahrir, successive governments have failed to take any measures to protect women protesters, nor to ensure independent and impartial investigations to hold those responsible to account. All of these attacks have gone unpunished.

In Cairo, the area in and around Tahrir Square has been the scene of gang rapes and other acts of sexual violence.

According to numerous accounts, the 18-day period leading to the fall of Mubarak represented a parenthesis in the violence and harassment that women experience on a daily basis. During the protests in Tahrir Square preceding Mubarak's resignation, not a single case of harassment was reported publicly, despite the massive presence of women, including amongst those spending day and night in the square.

According to one woman activist, "The first 18 days of the revolution were magical. Tahrir Square was the safest place in Egypt. They didn't even verbally harass us. Before that we were used to being subjected to daily harassment. But that period became so euphoric that when the violence started again it was more shocking than ever".

On the day Mubarak was deposed, journalist Laura Logan was violently attacked by a mob of more than 40 men, while she was reporting from Tahrir Square.

During the subsequent 16-month rule of the Supreme Council of Armed Forces (SCAF), women protesters were repeatedly targeted by security and armed forces. Women were beaten in the streets and subjected to sexual and gender-based violence in detention, including forced “virginity tests” and threats of rape.

Under Mohamed Morsi’s presidency, women in the vicinity of Tahrir were attacked during demonstrations by unidentified men. There were over 250 documented cases during the period from November 2012 to July 2013 of women being targeted by mobs of men and boys, many carrying weapons.

According to survivors and witnesses, these attacks tend to form a clear pattern. Attacks are perpetrated by groups of men who single out one or two women and separate them from the crowd by forming a circle around them. The men are mainly in their twenties and thirties. The survivors are groped by the mob and dragged violently to different locations. Sometimes their clothes are removed. Many survivors report members of the group saying, “Do not be afraid, I’m protecting you”, while they are being attacked. Attacks last from a few minutes to more than an hour. Several cases of rape have been reported and some survivors have required urgent medical treatment.

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“We call them the circles of hell.”

Nehad Abu ElQomsan, May 2013.

From November 2011 until July 2013, police were absent from Tahrir Square, leaving women unprotected. In January 2012, the Interior Ministry announced that police officers would only protect buildings around the Square. Activist groups that formed to try to prevent attacks and assist survivors, such as Operation Anti-Sexual Harassment (OpAnti-SH) and Tahrir Bodyguards, are sometimes themselves targets of violence.

Since the current regime came to power, there have been further reports of mob attacks in Tahrir, despite the presence of police forces securing protests. On 25 January 2014, one such attack was caught on live television, as cameras were filming a protest.

These attacks appear to be aimed at silencing women and preventing them from participating in protests. Many of the survivors and witnesses interviewed believed that attacks are coordinated and seek to break the opposition. In February 2013, women’s rights organisations addressed a petition to

President Morsi, denouncing “the trend of targeting female activists, to punish them for participating in the public sphere and to exclude them from political life.” According to Nazra for Feminist Studies, “The attack on women is calculated and organised so as to scare women away from the public sphere, to punish women for their participation and to keep them at home”.

“What happened was not merely sexual harassment; it was an intentional move to scare women from the political life and from Tahrir Square.”

Azza Balbaa, January 2013

“Now I feel afraid of participating in protests. I have to take precautions. I won’t go in the dark. I march. I don’t stop. I don’t stay in the Square. I keep marching”.

Woman activist, Cairo, May 2013

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These attacks are reminiscent of the use of sexual harassment and assault against women protesters under former President Hosni Mubarak. On 25 May 2005, which became known as “Black Wednesday”, protesters gathered in front of Saad Zaghlul memorial and the Press Syndicate in Cairo to call for a boycott of the referendum on constitutional reform. Security forces cleared the way for groups of men to assault women journalists taking part in the demonstration. One policeman told a women protester that such attacks were intended to “stop you taking part in demonstrations again.” Formal complaints were lodged by several survivors, but despite copious photographic evidence and eyewitness testimonies, the case was closed at the end of 2005 on the ground that the perpetrators could not be identified. To date, nobody has been held to account for these crimes.

Under the current regime, there have also been several reports of sexual violence against women protesters by the police and security forces. On 16 August 2013, in the aftermath of clashes and demonstrations in support of Mohamed Morsi, Al-Tawheed Mosque was raided by military forces. More than 20 women were sexually assaulted by officers from the Special Forces Unit, affiliated to the Central Security Forces, who grabbed their breasts. According to a survivor interviewed by Nazra for Feminist Studies, officers said they were “whores who came here to be fucked”.

On 26 November 2013, a protest against military trials for civilians in front of the Shura Council in Cairo was violently dispersed in accordance

with a newly adopted protest law. The police arrested and beat a dozen women protesters. Several of them reported having been sexually assaulted. The protesters were detained inside the Shura Council, before being transferred to New Cairo Police Station. A police officer told the women protesters that they would be released, however when they refused to leave without their male counterparts, they were dragged into a police van and taken to the East Upper Egypt desert road where they were dropped off in the middle of the desert. Two of the women, Mona Seif and Rasha Azab, said they were subjected to beatings and insults during their detention. On 27 November 2013, several women filed a complaint for assault to the Public Prosecution. The Prosecution took their testimonies, however as of March 2014, there was no information available on whether charges would be brought.

SUMMARY OF DOCUMENTED ATTACKS

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→ Fall of the Mubarak regime

11 February 2011: On the day that Hosni Mubarak was deposed, Lara Logan, a South African television reporter for the U.S channel CBS, was assaulted in Tahrir Square by a mob of more than 40 men. She returned to the USA where she was hospitalised for 4 days.

→ SCAF rule

9 March 2011: The Egyptian military arrested 18 women during a peaceful protest in Tahrir Square. They were taken to the Egyptian Museum where they were severely beaten, tortured and verbally abused. Later, 7 of them were transferred to a military prison in Heikstep, where they were subjected to “virginity tests”, administered by male army doctors and were threatened that “those not found to be virgins” would be charged with prostitution.

Several members of the military, including Major General Abdel-Fattah Al-Sisi, then head of Egypt’s military intelligence, admitted the practice, claiming that the tests were conducted so that women could not later allege they had been raped. In June 2011, Major General Al-Sisi declared that the army would stop conducting such “tests”.

On 27 December 2011, Cairo's administrative court ruled in favour of Samira's claim. The court declared that the use of forced "virginity testing" was unlawful. One army doctor, accused of conducting the tests, was charged with "acts in breach of public decency" but was acquitted by a military court in March 2012.

24 November 2011: Caroline Sinz, reporter for the French television channel, France 3, was assaulted in a street near Tahrir Square.

16 December 2011: Members of the armed forces targeted women protesters while suppressing a demonstration outside the Egyptian Cabinet offices. Several protesters were detained and subjected to sexual violence. Soldiers were filmed dragging a woman through the street, beating her as she was lying on the ground and pulling at her clothing to expose her body. This assault became known as "the blue bra incident". On 17 December, women participated in a mass demonstration under the slogan, "The women of Egypt are a red line."

→ Morsi regime

2 June 2012: Protests against the Court's verdict that Mubarak was an accessory to – not directly responsible for – the deaths of protesters during the 18 days of the uprising. Three testimonies of incidents of sexual assault in Tahrir were documented by Nazra for Feminist Studies.

"Before I knew it, I was thrown up against a wall...I was grabbed all over and my pants and shirt were ripped. In that moment it was as if the men got even more crazy. My pants were pulled down by the many men and they raped me with their dirty fingers...I tried to protect myself but there were too many hands and too many animals..."

"I didn't know who was trying to help and who wasn't. The only person I trusted was my friend. Others said they were helping but really just trying to get in the first row, getting a piece of the cake. Others were actually helping but it was impossible to know who."

"The men were like lions around a dead piece of meat and their hands were all over my body and up under my destroyed clothes. Again my pants and underwear were pulled down violently and several men at the same time raped me with their fingers. I was suddenly on the"

ground and the men pulled me from my hair, legs and arms while they continued raping me”.

A., interview with Nazra for Feminist Studies

8 June 2012: At a demonstration calling for an end to sexual harassment and assault on women protesters, demonstrators were groped and punched by a mob of men in Tahrir Square.

“The men who were doing the security cordon started harassing us. One girl said she was grabbed, then chaos broke out. Water being thrown, belts, guys running and circles with girls inside.... Two girls from the demonstration had guys run after them until Groppi (Talaat Harb)”.

L., May 2013

23 November 2012: During protests against President Morsi’s “Constitutional Declaration”, Nazra for Feminist Studies documented several cases of sexual assault. Yasmine El Baramawy later courageously spoke out publicly about her ordeal. She was surrounded by a mob, her clothes were stripped off and she was raped by the crowd.

“A group formed a circle around me...pulling my hair, pulling at my hands and feet... their hands were on every part of my body. The clothes covering my torso were torn off. I was holding my pants with one hand as they were pulling my other hand. They tore my pants from behind with pocket knives...They violated my body from Mohamed Mahmoud Street to Abdeen district, where people from the neighbourhood saw me and rescued me”.

Yasmine El Baramawy

5 December 2012: During clashes between pro and anti- Morsi protesters in front of the Presidential Palace in Cairo, activists Ola Shahba and Lina Megahed were abducted by pro-Morsi protesters who detained them briefly. The activists reported publicly that they were groped, sexually assaulted and severely beaten by members of the Muslim Brotherhood and Salafis.

25 January 2013: During protests commemorating the second anniversary of the revolution resulting in the overthrow of Mubarak, OpAnti-SH received reports of 19 cases of sexual assault and rape, including two cases of rape with a sharp object. The *Shoft Taharosh* (I Saw Harassment)

group identified another 5 cases. Attacks mainly took place between 6pm and 10pm in Tahrir Square, Talaat Harb Street, the entrance to Sadat metro station and behind Omar Maqram Mosque. Those assaulted were protesters, volunteers with anti-sexual harassment groups and passers-by.

"[The attackers] surrounded me in large numbers. Their hands were on every part of my body; in seconds they tore my clothes away and I heard their voices – all conveying a message that they are protecting me...I did not know who was trying to save me and whose hands were inside me".

H., interview with El Nadeem Centre

"A lot of people were pushing. Swiss army knives were being opened and bit by bit they tore the girl's clothes off and I started to lose her in the crowd. She lost her shirt...She was being pulled in every direction".

Mustafa Qandil, Operation Anti-Sexual Harassment, May 2013

"The circle around us grew tighter and tighter. Tens of hands from this circle reached out towards my body to touch it, particularly playing around with my legs and buttocks. At the same time I was trying to save myself from these hands, a hand tried to rip my clothes off".

Dr. Aida Abdel Rahman Karasha, interview with El Nadeem Centre

In March 2013, Yasmine El Baramawy, Hania Mohib and five other women filed a joint complaint about the attacks on them in November 2012 and January 2013 to the Kasr el Nil prosecution office. Three of them filed the case as survivors and the other four as witnesses. Prosecutors opened an investigation in March 2013, however, a year later no progress had been made in the case, which remains in the Prosecutor's office.

28 June – 2 July 2013: During protests leading to the removal of President Mohamed Morsi, 101 cases of sexual assault, including at least 3 cases of rape, were documented in and around Tahrir Square. On 28 June, Nazra for Feminist Studies, OpAnti-SH and Tahrir Bodyguards documented 12 cases of sexual assault, including cases in which women required urgent medical treatment. On 30 June, OpAnti-SH documented 46 cases of violent sexual assault and rape. The reports ranged from "mob sexual harassment and assault to cases of rape using knives and sharp objects". NGOs recorded 17 incidents of sexual assault on 1 July and 26 cases on 2 July.

→ Current regime

3-7 July 2013: During continued protests, 85 cases of sexual assault, including several cases of rape, around Tahrir were documented by Nazra for Feminist Studies, OpAntiSh and Tahrir Bodyguard.

16 August 2013: In the aftermath of clashes and demonstrations in support of Mohamed Morsi, Al-Tawheed Mosque was raided by military forces. More than 20 women reported that they were sexually assaulted by officers from the Special Forces Unit, affiliated to the Central Security Forces.

26 November 2013: A protest against military trials for civilians in front of the Shura Council in Cairo was violently dispersed in accordance with a newly adopted protest law. The police arrested, beat and detained a dozen women protesters before leaving them in the desert outside Cairo. Several reported having been sexually assaulted.

“He [policeman in civilian clothes inside the police station] gestured to the men, who each grabbed one of us girls, beat us and forced us inside the police van. We drove around for about 2 hours. The van then left the highway and drove into the desert. Then they stopped, checked us out and left us there.”

Aida Al-Kashef, video testimony published online by Mosireen

25 January 2014: An incident of mass sexual assault was caught on live television in Tahrir, during protests commemorating the third anniversary of the revolution.

All these cases have a common thread: the perpetrators are never brought to justice. As of March 2014, there had not been a single conviction for these crimes. In most cases, no investigation had been opened.

The state has failed in its duty under international law to ensure effective investigations, prosecutions and sanction of perpetrators, whether they be state actors or civilians.

Impunity contributes to the repetition of these crimes, with perpetrators safe in the knowledge that they will not be held to account.

In the absence of justice at the national level, some NGOs have resorted to regional mechanisms. In May 2006, the Egyptian Initiative for Personal Rights (EIPR) and Interights lodged a complaint before the African Commission on Human and Peoples' Rights (*EIPR v. Egypt* (323/2006)) against the Egyptian authorities in response to the events of "Black Wednesday". In March 2013, the Commission found that the state of Egypt failed to protect four women journalists from violence and in doing so violated their human rights, including the right to equality and non-discrimination, the right to dignity and protection from cruel inhuman and degrading treatment and the right to express and disseminate opinions within the law. In its decision, the Commission took into consideration that the attacks were targeted at women, aiming to 'keep women in their place' by denying them space to protest and express their political opinions. The Commission stated that "the perpetrators of the assaults seemed to be aware of the context of the Egyptian society; an Arab Muslim society where a woman's virtue is measured by keeping herself physically and sexually unexposed...". The Commission urged Egypt to hold an investigation and punish those responsible as well as to amend laws to bring them in line with the African Charter on Human and Peoples' Rights. The Egyptian government has not implemented any of the Commission's recommendations.

1.2 Sexual harassment and assault

"Sexual harassment is a constant in the life of any Egyptian woman regardless of her social status or class."

Activist from Nazra for Feminist Studies, May 2013

The attacks against protesters have to be seen in the wider context of violence against women in the public and private sphere. Sexual harassment and assault in public places is a long-standing and systemic problem in Egypt. For several years, national and international organisations have been labelling it an "epidemic". Such violence is generally met with complete impunity, contributing to a climate of tolerance.

"The silence of the society gave space for harassment to increase."

Activist, Port Said, May 2013

Women are subjected to daily sexual harassment in the streets, public transport, shops, markets, schools, universities, clubs, tourist spots, protests and the workplace. There are no official figures on sexual harassment and

since most cases go unreported, it is difficult to evaluate its prevalence with accuracy. However, a 2013 UN Women study reported that 96.5% of women surveyed had been physically molested – touched, grabbed, groped – by men in a public place. 95.5% of women reported having been verbally harassed. The study found that the main areas in which sexual harassment takes place are the street (89.3% of those interviewed) and public transport (81.8% of those interviewed).

A study published by the Egyptian Centre for Women’s Rights in 2008 found that 86% of men interviewed admitted to having sexually harassed women.

Such daily violence has serious consequences for women’s freedom of movement, including use of public transport, going out during public holidays, walking in the streets after dark, or going out in the street at all.

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1.2.1 Lack of legal definition

The absence of legislation criminalising sexual harassment and inadequate legal definitions of the various forms of sexual assault (see further below) create confusion as to the type and gravity of the offence. The term commonly used to describe sexual harassment, ‘*taharosh*’, covers a wide range of actions, from ‘flirting’ to rape. This term has only recently been introduced into everyday language, principally as result of awareness raising efforts of NGOs. Previously, such behaviour was referred to as ‘*mo’aksa*’, meaning ‘flirtation’. The term ‘*hatk ‘ird*’, a criminal offence meaning indecent assault, is also used to refer to physical assault. The term has negative connotations for the survivor as it implies that she has been tarnished.

“I would report harassment if the charges were called harassment and not ‘hatk ‘ird’”.

Woman from Al Minya interviewed by UN Women.

There are several consequences of the absence of legal definitions. Civil society groups working on raising awareness about sexual harassment report that women are often unsure what constitutes harassment. For example, many are not aware that harassment can include verbal abuse, such as name calling or unwanted sexual invitations. The seriousness of verbal harassment is thus minimised, contributing to a perception that it is socially acceptable.

At the other end of the spectrum, crimes such as rape and other forms of sexual assault tend to be absorbed in the umbrella terms of *'taharosh'* or *'hatk 'ird'*. This has the effect of making such crimes less visible. It also has the perverse effect of making survivors less likely to report harassment and assault not amounting to rape, for fear that people will assume they have been raped.

"If my father hears that I have been a victim of ' hatk 'ird', he will think that it is more than that".

Activist, Fouada Watch, May 2013

1.2.2. Daily violence

"Women suffer daily nightmares when they go out."

Isis Khalil, May 2013

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The lack of official data as well as the vast under-reporting of crimes make in-depth analysis difficult. However, certain trends can be observed.

Sexual harassment tends to increase during public religious holidays such as *Eid el Fitr* and *Eid el Adha*, when streets are crowded. Despite the fact that such peaks in violence can be anticipated, police are rarely involved in protecting women in the streets. In one reported incident, on the first day of the *Eid el Fitr* in 2006, groups of men attacked women passers-by in downtown Cairo, stripped them of their clothes and sexually assaulted them. In 2009 during the first day of *Eid el Adha*, groups of young boys stripped women of their clothes and sexually assaulted them in Mohandesin, Cairo.

According to Harassmap, over the past several years the number of cases documented has increased. Engy Ghozlan, who worked with the Egyptian Centre for Women's Rights (ECWR) before co-founding Harassmap in 2009, considers that this change may not reflect an increase in the numbers of crimes committed but could be largely due to a "great shift in the way people look at the issue". She says, "I remember in 2005-2006, no-one would speak about it. People would even scratch the words "sexual harassment" off the stickers we put up in the streets. Now you can write sexual harassment in the streets and no-one cares". She attributes the change in perception to the work carried out by NGOs like ECWR and citizen initiatives like OpAnti-SH. ECWR launched the first national campaign against sexual harassment in 2005. According to Nehad Abu ElQomsan, Director of ECWR, "Before then, nobody talked about it. It was a complete taboo". Engy Ghozlan also invokes

إدعم / ي ... إحشد / ي ... شارك / ي

مناهضة / ي ... واجب وطني

التحرش

**التحرش جريمة / يجب معاقبة المتحرش بالقانون / التحرش
يسئ إلى سمعة مصر / التحرش يؤثر سلباً على الإقتصاد**

Flyer designed by Shoft Taharosh. “Support, mobilise, participate: combating harassment is a national duty.” “Harassment is a crime. The harasser must be punished in accordance with the law. Harassment gives Egypt a bad reputation. Harassment is bad for the economy.”

the role of the media, pointing to increased media coverage of the issue, in particular following the decision of survivors of attacks in Tahrir Square to speak publicly about the crimes.

During the period between October 2012 until March 2013, Harassmap received 269 reports of sexual harassment, with 46% of perpetrators under 18 years old. 53% of reports were physical sexual assault. 63% of cases took place in the street, 6% in public transport and 6% in educational spaces.

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On 16 March 2014, the Shoft Taharosh campaign reported a case of sexual assault of a female student on the Cairo university campus. A mob of men surrounded the student, verbally and physically assaulted her, until she was escorted out of the campus in the presence of the university's security. The head of Cairo university, Gaber Nassar, said on television that the survivor had been "wearing inappropriate clothing". On 19 March, Nassar issued a public apology and said that an investigation would be opened by the university administration into the incident. On 20 March, the university announced that it had been able to identify three of the perpetrators.

According to an ECWR survey in 2008, the majority of those responsible for harassment in the streets are between 12-17 years old. Many of those interviewed reported that there are increasing numbers of even younger boys harassing women and girls in the street, usually in the form of verbal harassment or groping. According to a representative of Fouada Watch, "it's like a game. Young boys bet on who will get to a woman first. Her body is a game".

According to respondents, police officers usually fail to intervene. 93% of women interviewed in the 2013 UN Women study said that their requests for help from police officers at the scene of harassment were unanswered.

Passers-by also tend to ignore attacks. One respondent said, "I gave a male friend a hug in a park and passers-by said 'Where is your decency?' 'Where is your family?' If he'd been attacking me, they wouldn't have done anything". Some respondents said that passers-by do not intervene out of fear that aggressors may be carrying weapons. In some cases bystanders step in to shield the aggressor or to excuse his conduct. In an experiment filmed by The Bussy Project, in which actors staged an incident in Talaat Harb street of one man harassing two women, bystanders called the survivors "crazy" when they said they were going to file a police report and stepped in to try to protect the harasser.

“Two girls walked out of school and two guys on motorbikes shouted abuse at them. The girls started yelling. A shopkeeper shouted at the girls not to yell at the boys”.

H., Port Said, May 2013

“I was on a microbus and a guy grabbed me from behind. I yelled and called to the bus driver to stop. A woman on the bus told me, ‘leave him alone, he’s an old man’”.

M., Alexandria, May 2013

There have been reports of several incidents of sexual harassment and assault spiralling into killings. In September 2012, in Assiut, Iman Moustafa was sexually assaulted in the street. When she spat at the perpetrator, he shot her dead. He was sentenced to 25 years imprisonment for murder. In August 2013, in Tanta, Shorouk al-Torabi was run over by a car after she objected to harassment by the driver. The Tanta Prosecution ordered the driver’s release on bail and a forensic examination of al-Torabi. According to media reports, the Prosecution found inconsistency in the testimonies of eye witnesses, some stating that the driver hit al-Torabi by accident, while al-Torabi’s accompanying friend testified that she was hit intentionally. As of March 2014, there was no information available on the status of the investigation.

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1.3 The state’s failure to address violence against women

Regardless of the identity of the perpetrators, the State has direct responsibility for preventing violence against women, prosecuting and punishing perpetrators and providing effective remedies to survivors.

Egypt has ratified several international treaties, including the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which impose legally binding obligations on the state to take action against violence against women perpetrated by both state and non-state actors. Egypt has also ratified the African Charter on Human and Peoples’ Rights which imposes similar obligations.

Under international law, the state is obliged to ensure effective investigations, prosecutions and punishment of perpetrators and reparation to survivors.

States are accountable for the actions of non-state actors if they fail to act with due diligence to prevent, investigate or punish such acts and provide an effective remedy. The state is also required to provide support services, including psychological and medical support, to survivors of violence.

Article 2 of CEDAW requires states to eliminate discrimination against women by adopting legislative and other measures. Article 5 of CEDAW requires states to take all appropriate measures: “to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”.

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Successive Egyptian governments have failed to take the measures required under international law. In 2010, the CEDAW Committee denounced inadequate legislative provisions, lack of data, and inadequate support services for survivors of violence and urged the Egyptian government to “give priority attention to combating violence against women and girls and to adopting comprehensive measures to address such violence”. According to the Committee, such measures should include “the expeditious adoption of a comprehensive law criminalising all forms of violence against women, including domestic violence, marital rape, sexual violence, sexual harassment, institutional violence and crimes committed in the name of honour”. They should also include, “the development of a coherent and multi-sectoral action plan to combat violence against women”. These recommendations remain unimplemented.

1.3.1 Discriminatory political and religious discourse

International law requires the state to condemn violence against women. Under Article 4 of the UN Declaration on the Elimination of Violence Against Women (DEVAW), “States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination”. This is reiterated in the UN Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice, (para 3), (‘UN Model Strategies’).

Yet rather than condemn the sexual violence in and around Tahrir Square, much of the political discourse focused on blaming the survivors, sending

the message that women should not be in public spaces. This message is relayed extensively by the media.

In February 2013, in response to the mob attacks against women protesters in Tahrir, members of the Shura Council, Egypt's Upper House of Parliament, blamed the attacks on the women's presence amongst men in crowded places. They claimed that women should not mix with men during demonstrations, that they had no place in these "male spaces" and pointed to their "indecent dress". Reda Saleh El Hefnawy, member for the Freedom and Justice Party (the political arm of the Muslim Brotherhood), said "I call on women not to stand next to men in protests... they must have special places. I wonder, how can we ask the Ministry of Interior to protect a woman who stands amongst men?". According to General Adel El Afifi, member of the Shura Council Human Rights Committee representing the Salafi Asala Party, "The girl knows that she is going down amongst thugs, so she has to protect herself before asking the police to protect her, the police can't even protect themselves...in some cases, the girl is a 100% responsible for her rape because she put herself in that position". Salah Abdel Salam, member of the Shura Council representing the Salafi Nour Party, stated that women protesters bear responsibility as long as they protest in areas filled with thugs. Mervat Ebeid, member representing the Wafd party, said that knowing there are many thugs present at demonstrations, women should take responsibility when deciding whether to attend protests. Ahmed El Khatib, Vice President of the Court of Appeal, called on women not to go to unsafe places to avoid being assaulted.

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These comments received strong criticism from civil society groups working on combating sexual harassment and assault. In May 2013, in reaction to public pressure, these same members joined a statement condemning the statements made by members of the Shura Council.

In April 2012, during discussions in the parliament on proposals for a law on sexual harassment, Azza El Garf, member for the Freedom and Justice Party said that "sexual harassment is caused by the nakedness of women". She added that "we do not need this law because the girl is responsible, we have to punish the girl because she incites men to commit the sinful act".

These statements by members of parliament and other officials form part of a wider discourse which fails to recognise violence against women as a problem and perceives calls for protection as going against cultural and religious values. In March 2013, members of the Muslim Brotherhood and

other Islamist parties launched an attack against a draft declaration by the UN Commission on the Status of Women (CSW) calling for an end to all types of violence against women. The Muslim Brotherhood described the statement as aimed at “destroying family life, the basic building block of society”: “This declaration... would lead to complete disintegration of society, and would be the final step in the intellectual and cultural invasion of Muslim countries”. The Muslim Brotherhood took particular exception to provisions on the legal age of marriage, marital rape, domestic violence and abolishing discrimination in marriage, access to divorce, custody of children and inheritance. They called for the rejection of the declaration.

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Attacks in Tahrir have also been exploited for political point-scoring. Supporters of the Muslim Brotherhood and deposed president Mohamed Morsi have exploited attacks to further discredit and defame the opposition. Following attacks on women protesters in June 2013, members of the Muslim Brotherhood published information about the sexual assaults on social media, spreading the message that Morsi’s opponents were “thugs” and “criminals”. On 29 June 2013, Essam Al-Haddad, Assistant to the President on Foreign Relations and International Cooperation issued a statement pointing to the sexual attacks against women committed by opponents to President Morsi at demonstrations in Tahrir Square, compared to the “peaceful” protests held by his supporters in Rabaa al-Adawiya district. The official Twitter account of the Muslim Brotherhood, Ikhwan Web, tweeted that “Tahrir thugs aka ‘revolutionaries’ have sexually assaulted a foreign woman”. A source in the Ministry of Health additionally violated the medical professional code of ethics and the privacy of survivors of sexual assault by making press statements on the Freedom and Justice Party online portal, in which the Ministry revealed personal information of a survivor and information on her medical condition.

Meanwhile opposition political parties have argued that the incidents of mass sexual assault are organised by the Muslim Brotherhood. Nazra or Feminist Studies and other organisations and groups working on combating sexual harassment and assaults have condemned these statements, stating “that the attempts of the authorities to use the incidents of sexual assault against the women to “smear” the opposition’s demonstrations mark the rock bottom of the official rhetoric of state institutions”.

Several fundamentalist religious leaders have also spread messages blaming women for the harassment they endure. They argue that the women’s clothes provoke men, or that the women intentionally dress “provocatively” because

they want to be harassed. Their rhetoric focuses on the female body, viewing it as a sexual commodity and something indecent (*awra*) that needs to be covered. In February 2013, fundamentalist preacher, Ahmed Abdullah, also known as “Abu Islam”, owner of Umma TV channel, described the female protesters in Tahrir as “naked whores who go to Tahrir because they want to get raped”. Other religious figures have compared women to the devil, inciting men to commit sins.

1.3.2 Lack of political will

Successive regimes have lacked the political will to enact the reforms needed to combat violence and discrimination against women. At best, narrow legal reforms have been adopted which have failed to respond to the need for a wide-ranging review of existing legislation and its implementation. Many announcements for reform are never put into effect.

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On 1 April 2011, the SCAF regime issued a decree (11/2011) amending certain provisions in the Penal Code (58/1937) to increase penalties for crimes of various forms of sexual harassment, including indecent assault, verbal harassment, indecent public acts, abduction and rape. New Woman Foundation (NWF) points out that without measures aimed at encouraging women to report crimes, as well as effective investigations and prosecutions and support services for survivors, the toughening of sanctions is likely to have little effect.

In October 2012, following reports of sexual harassment during the *Eid el Adha* holiday and international outcry over attacks taking place in Tahrir Square, Prime Minister Hisham Qandil condemned sexual harassment, calling it a “catastrophe” that threatens society. President Mohamed Morsi stressed the need to fight “all phenomena of moral chaos and abuses, especially harassment in Egyptian streets” and new legislation to combat sexual harassment was announced. This statement was reiterated in February 2013, following attacks in Tahrir on 25 January 2013. However, no such legislation was submitted to parliament.

During meetings with FIDH, New Woman Foundation and Nazra for Feminist Studies in May 2013, the Egyptian authorities recognised that police officers, forensic scientists, prosecutors and judges lack training on dealing with crimes of sexual violence. They outlined several measures that had recently been taken to improve the justice system’s response to such crimes.

Representatives of the Ministry of Justice said that a series of training sessions for those involved in the administration of justice would be implemented. They also said that the Ministry had established a unit on ‘women’s issues’ to study the existing laws and propose amendments to ensure the equality of women and the prevention of all types of violence. The Public Prosecution department informed the delegation that they had started training sessions for prosecutors on ‘women’s issues’.

28 On 19 May 2013, the Ministry of Interior announced the establishment of the “Department for monitoring crimes of violence against women” within the Ministry. Ministry officials interviewed said that this unit would be staffed with ten women police officers from a range of fields, including social workers, psychologists and police officers from the public morals and human trafficking department. The Ministry had also established a hotline for women to report cases of sexual violence and follow the progress of their complaint without having to go to a police station.

In September 2013, the unit signed a cooperation protocol with the National Council for Women. In November 2013, the Ministry announced in a press conference that it had established offices for the unit in every security directorate. The head of the unit, Colonel Manal Atef, announced that it would also provide psychological support and rehabilitation for victims.

However, the mandate of the unit has not been effectively publicised and there is no website providing information. Women’s rights organisations were not consulted on the definition of the unit’s mandate and operation.

There have been some further recent commitments to tackling violence, but concrete measures remain lacking. In November 2013, the Ministry of Foreign Affairs issued a press release outlining some efforts to combat violence against women. According to the Ministry, the National Council for Women is “monitoring the commitment of governmental and non-governmental agencies concerned with countering all forms of violence against women”. On the issue of female genital mutilation, the National Council for Childhood and Motherhood would implement “a national programme designed to raise social awareness... and to limit social and cultural pressures”.

In December 2013, the Ministry of Justice co-organised a workshop with United Nations Office on Drugs and Crime (UNODC) aimed at conducting “high level consultations among relevant stakeholders and introducing best

practice methodologies with a targeted goal of initiating the development of a national action plan to combat violence against women in Egypt,...including the development of future legislation”. During the opening, Assistant Minister of Interior, Abu Bakr Abdel-Karim, delivered a statement on behalf of the Minister of Interior in which he stressed that “violence against women is contrary to religion, international conventions and human rights”.

Various pieces of draft legislation have circulated but have not reached parliamentary vote. In June 2013, the National Council of Women submitted a draft law on violence against women to the President and the Prime Minister. This rushed draft was developed without consultation of women’s rights groups and activists and presented a number of concerns. The draft did not receive any follow-up.

In March 2014, the media reported that there had been two separate initiatives to reform article 306(bis)(a) of the Penal code (Lewd word, deed, or gesture) in order to criminalise sexual harassment. An amendment proposed by the Ministry of Justice defines sexual harassment as “directing a gesture, words, or any means of modern communication or by any other form, in a public or private space, through stalking or following, so that it has sexual connotations”. The amendment proposes a maximum penalty of 10 years imprisonment. Aggravating factors requiring the imposition of more severe sanctions include sexual harassment by a superior in the workplace or educational establishments, or repeated offending. For cases involving several perpetrators, imprisonment would be mandatory.

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An amendment proposed by the National Women’s Council uses the same definition of harassment but specifies that the victim must be a female. The draft does not specify a maximum penalty or aggravating factors.

Both initiatives were taken without consultation of civil society organisations working on sexual harassment and assault, and the texts were not made public. The definitions have been criticised by women’s rights organisations as one draft requires the victim to be a female, and both drafts restrict harassment to an act of following or pursuit.

Measures taken so far have been announced without prior consultation of women’s rights groups. They do not address the need for a wide-ranging review of obstacles to women’s access to justice. Neither do they address the deep-seated discriminatory discourse and social acceptance of sexual harass-

ment and assault and discrimination against and marginalisation of women.

For reforms to have any real effect, they need to be wide-ranging and be designed and implemented in consultation with civil society.

1.3.3 Citizen initiatives filling the vacuum

“I’m not going to wait for the government to react, I’ll try and solve the problem myself.”

Eman, university student, May 2013

Meanwhile, increasing numbers of young people, men and women, have been taking matters into their own hands, working to prevent sexual harassment, protect survivors, expose perpetrators, and document incidents of sexual harassment and mass sexual assault.

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Some groups have intervened directly to protect women. In November 2012, in response to continued attacks in Tahrir Square and the failure of the security forces to protect women, two volunteer rescue groups were established: Operation Anti-Sexual Harassment (OpAnti-SH) and Tahrir Bodyguard.

These initiatives have had success in preventing attacks and assisting survivors. Their efforts have also succeeded in pushing the issue on the public agenda and breaking the taboo around sexual violence.

However, it is important to underline that such initiatives do not diminish the responsibility of the state in protecting its citizens. There are also risks associated with civil society taking on the duties of the state, especially for groups that intervene to stop harassment and assault and to arrest the perpetrators.

“The rise in initiatives by young people and grass-roots activists is very positive. But there are risks with citizens taking law enforcement into their own hands. Tomorrow’s vigilante may ask, “Why isn’t she veiled? Why is she with a boy? Why is she in a café?”

Engy Ghozlan, Harassmap, May 2013

There are risks of acts of revenge being taken against harassers. During *Eid el Fitr* in 2012, a group of volunteers who were intervening to rescue women from sexual harassment were filmed spraying paint on the faces of harassers and assaulting them. In other cases, bystanders who have intervened have used violent means to disperse the mob.

Furthermore, these initiatives have raised issues about how to avoid reinforcing existing inequalities and stereotypes. Some initiatives are perceived as promoting the role of men as protectors of women. A key principle of OpAnti-SH is that intervening to rescue women in Tahrir needs to be done without enforcing ideas about male “protection.” For this reason, according to the OpAnti-SH founding statement, “women’s participation [in intervention teams]...is a main part of the group’s philosophy. Participants...are very much aware of the magnitude of the risk that they are under in case of participating in such an initiative. But this group of men and women believe in full and equal participation of women without trying to impose protection or guardianship from men”.

Nazra for Feminist Studies stresses “the need to confront all attempts to use the discussion on sexual harassment and assault as a means to ‘protect’ women that may lead to their exclusion or infringe on their right to demonstrate or take part in various political activities”.

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This risk can also be perceived in proposed solutions to harassment that focus on separating men and women in public spaces. Segregating women and men, for example in separate protests, with men forming chains around women in marches or separate metro carriages, has a serious impact on women’s right to participate in public life and reinforces existing stereotypes and discrimination.



© FIDH

A protest against sexual harassment in Port Said, in May 2013. The sign reads: “Why pay the price alone, speak up...”.



الي يقولك يا بطل هزيله العضل
ارقبوها التحرش



حنة اذيله بالأجرة

استرجل
والله يا

وطلع في رقبته ان اليمين
بجيلة

جلسمي حرا
ما يتهنش



EGYPT
KEEPING WOMEN OUT



2. FACTORS FUELLING PERSISTENT VIOLENCE

2. Factors fuelling persistent violence

2.1 Lack of security

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Long-standing distrust in the capacity and willingness of security forces to protect citizens has further increased since the start of the revolution in January 2011. During the decades of the deposed Egyptian President Hosni Mubarak's rule, the police became infamous for their brutality, as evidenced in the excessive use of force against peaceful demonstrators and by the numerous reported cases of torture inside police stations. Human rights organisations continue to document cases of human rights violations by police and security forces. Clashes between security forces and protesters are common, regularly leading to deaths and serious injuries.

Many of those interviewed reported that the absence of security on Egyptian streets had led to a dramatic increase in acts of violence between citizens. The increase in all types of violence in the public sphere, generally carried out with complete impunity, in turn generates a climate of acceptance, fuelling further violence.

In the context of the violence in and around Tahrir Square, successive regimes have failed to take measures to protect women participating in protests. Indeed, from November 2011 until July 2013, security forces were largely absent during demonstrations, in part in order to avoid further clashes. Since then, police and military presence has increased but attacks have continued. For example, despite strong police presence in Tahrir on 25 January 2014, there were incidents of mass sexual assault. Reports of police and military officers themselves committing sexual violence against women protesters on arrest and in detention further reinforce lack of trust and insecurity.

In an interview in May 2013, officials at the Ministry of Interior recognised that there was an urgent need to restore the trust and confidence between the police and the people. However, so far, no concrete measures have been taken to achieve this.

2.2 Blaming the survivor, shame and stigmatisation

“Every woman and girl who went to Tahrir Square and was sexually harassed is not any less of a hero than those injured during the revolution...[but] every woman who has been assaulted would not be greeted as a hero when she goes back home. They will hide what happened to her. Those who know will be concerned about whether she is a virgin or not and how they can cover her shame”.

Salma El Tarzi, interview with El Nadeem Centre

For most women and girls, obstacles to holding the perpetrators to account begin long before they reach the police station. Women are often reluctant to report incidents of harassment or other forms of sexual violence to the security forces because of social attitudes and pressures. The discourse which puts the blame on the survivor of sexual violence can be heard at all levels of society. Media reports tend to focus on the behaviour of the survivor. According to a study conducted by UN women, 34.6% of women interviewed said that they did not report harassment to the police because they feared for their reputation.

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Survivors are blamed for provoking attacks by the clothes or make-up they wear, by walking in the streets at late hours or even by leaving home in the first place. According to Engy Ghozlan from Harassmap, “People usually say the girl deserves it or was asking for it”. Yasmine El Baramawy reported that just after she had been raped, a man who came to her assistance asked her, “What did you do to them? What do they want from you?”

Families may also blame the survivor and discourage them from filing complaints. According to one activist, “Once I told my father I was harassed. He said, ‘You must have encouraged him’”. Another activist told the delegation, “They say if you report it, you won’t get a husband. You’ll be damaged goods”.

2.3 Obstacles to justice: a climate of impunity

Sexual harassment and assault go largely unpunished. The vast majority of survivors do not file complaints. The few cases that are reported rarely result in the conviction of the perpetrator. Women and girls therefore suffer “double victimisation”: first the attack itself and then the failure of authorities to provide effective justice. The generalised climate of impunity contributes to the social acceptance of sexual harassment.

“The view is if it is not punished, then it is not a crime”.

Egyptian woman activist, August 2013

Survivors face obstacles at every stage of the justice process. Crimes of sexual violence are inadequately defined in law. Law enforcement personnel lack training to deal with violence against women and survivors face dismissive responses from police, medical and judicial personnel. Protection measures are insufficient, with the risk that proceedings result in re-traumatisation of the survivor. Support services are inadequate.

The UN Model Strategies (para 7) require crime prevention and criminal justice responses to violence against women to be focused on the needs of victims and to empower individual women who are victims of violence. States must ensure that prevention and intervention efforts are made to not only stop and appropriately sanction violence against women, but also restore a sense of dignity and control to the victims of such violence.

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2.3.1 Lack of data

When complaints are filed, they are not recorded as gender-based violence. Moreover, the lack of a legal definition of sexual harassment in the Egyptian Penal Code means that these crimes are recorded under various different charges. This lack of data makes it difficult to analyse the response of the criminal justice system to complaints. The lack of statistics is itself an indication that this type of crime is not taken seriously. In discussions with the delegation, representatives of the Ministry of the Interior recognised that the lack of data was a serious problem.

Under CEDAW General Comment 19, states are required to collect data on crimes of violence against women. States should encourage “the compilation of statistics and research on the extent, causes and effects of violence, and on the effectiveness of measures to prevent and deal with violence” (para 24(c)).

According to figures for the year 2012 reported by the newly established Violence against Women Unit at the Ministry of Interior and made public during a television show, 115 cases of rape (*'ightisab*) were reported. 94 individuals were arrested, 37 of them in Cairo. 9,486 cases of “indecent exposure” (*fe'el fadeh*) were reported, of which 2,099 in Alexandria. 329 complaints were recorded as “indecent assault” (*hatk 'ird*), 91 of them in Cairo. 265 persons were arrested. However, there are no figures on how many people were charged, how many reached trial or how many resulted in convictions and sentences.

During *Eid el Adha* in October 2012, the Ministry of Interior stated that there had been 1,006 cases of sexual harassment (*taharosh gensi*). According to a report produced by the Ministry, 15% of perpetrators were between the ages of 8-12, 30% 12-16 years old, 28% 16-20 years old, 21% 20-25 years old, 3% 25-30 years old, and 3% 30-35 years old. The types of offence ranged from verbal sexual harassment to physical molestation. However there is no data on the outcomes of these complaints or whether any of them resulted in charges.

2.3.2 Inadequate definitions under criminal law

“If there was a law on sexual harassment, it would encourage people to report it because it would no longer be ‘hatk ird’, and the state would be perceiving it as a crime”.

Woman activist, Cairo, May 2013.

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The range of crimes of sexual violence is not adequately defined in Egyptian criminal law. There is no crime of sexual harassment or sexual assault. Several proposals for legislative reform have been developed by NGOs and other bodies but have never been considered by parliament.

In 2010, a coalition of 23 Egyptian human rights organisations and non-governmental organisations submitted proposed amendments to the Egyptian penal code as well as a draft law on violence against women. In August 2012, the Egyptian Centre for Women’s Rights submitted a draft law on violence against women to the presidency. In May 2013, the National Council for Women submitted a draft law on all forms of violence against women to the government. These proposals can be found in the Annex to this report.

CEDAW General Comment 19 requires states “to ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity”. The UN Model Strategies (para 14) call on states to: “review, evaluate and update their national laws, policies, codes, procedures, programmes and practices, especially their criminal laws, on an ongoing basis to ensure and guarantee their value, comprehensiveness and effectiveness in eliminating all forms of violence against women and to remove provisions that allow for or condone violence against women or that increase the vulnerability or re-victimisation of women who have been subject to violence”.

EXISTING OFFENCES

Misdemeanours

“Lewd word, deed, or gesture” (*ta’arod le shakhs ‘ala wagh yakhdosh haya’o*): This provision could be used to prosecute offences of verbal harassment. It is defined under Article 306 (bis) (a) as “any person who directs a lewd word, deed, or gesture to another on a public road or in a populated place...[including] if the indecency takes place over the telephone or via any means of communication, wireless and otherwise.” This offence carries prison sentences of between six months and two years and/or a fine. Prior to amendments introduced to the Penal Code by the SCAF regime in March 2011, the victim was defined as a female, and the penalty was no more than one year imprisonment and/or a fine of no less than LE200 and no more than LE1000. .

“Indecent public behaviour” (*fe’lan fadehan mokhelan bi ‘al haya’*): under Article 278, anyone who commits a “lewd, indecent act in public” shall be punished by no more than one year imprisonment or a fine of no more than LE300.

Crimes

“Indecent assault” (*hatk ‘ird*) is defined under Article 268 as “violating the honour of another with the use of force or threats, or attempting to do so”. According to lawyers and women’s rights organisations, in cases of physical harassment including touching, grabbing, groping or ripping the clothes of the survivor, prosecutors generally use this provision.

As noted above, the connotation of honour in the definition of this crime implies that the survivor has been tarnished.

In view of the narrow definition of rape (see below), anal rape and rape with a part of the body other than the penis or with an object, may be charged under article 268.

Since the 2011 amendments, indecent assault carries a sentence of imprisonment ranging from 3 years to 15 years. If the victim is under 18 years old, or if the perpetrator was a family member, or a guardian, or has an authority over her, or is her paid servant, or there are multiple perpetrators, then imprisonment shall be no less than 7 years. If both criteria are met, the sentence is life imprisonment.

Before the amendment, the penalty was hard labour from 3 to 7 years, and if any of the above criteria were met, a maximum of 15 years imprisonment.

“Rape” (*waqa’ ‘ontha bi ghir redaha*) is defined under Article 267 as non-consensual intercourse between a man and a woman.

This definition does not comply with international norms and jurisprudence. The Elements of Crimes, which guide interpretation of the Statute of the International Criminal Court, and the ICC Rules of Procedure, as well as international jurisprudence, define rape in a gender-neutral way. Rape involves the non-consensual penetration, however slight, of the vagina or anus of the victim by the penis of the perpetrator or any other object used by the perpetrator, or of the mouth of the victim by the penis of the perpetrator.

International law also reflects the understanding that the invasion of the body might be committed not only by force, but also by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power. The definition of rape should therefore underline that consent must be given voluntarily, as a result of the victim’s free will, assessed in the context of the surrounding circumstances. The use of force or the threat of force, provides clear evidence of non-consent, but force is not an element per se of rape.

Under Article 267, as reformed in March 2011, rape is punishable by the death penalty or life imprisonment. The reformed Article specifies that “the offender shall be punished with death if the victim is under the age of 18, or if the offender is related to the victim or is responsible for her upbringing or care, or is among those with authority over her, or if the offender is a servant in her employ or the employ of one of the aforementioned individuals, or if more than one offender is involved in the crime.” FIDH, Nazra for Feminist Studies, Uprising of Women and New Woman Foundation are against the death penalty for any crime.

2.3.3 Filing a complaint

The vast majority of offences do not result in formal complaints. According to a study conducted by UN Women in 2013, 23.2% of women interviewed said that they did not report harassment to the police because they thought there were no laws to penalise harassment. Others said they do not report such crimes because they have no faith in the justice system and believe the end result will be impunity. Survivors also report being concerned about entering police stations, fearing that they may face further harassment and abuse there. Several respondents reported that they had faced harassment by police officers themselves in the streets.

“Those responsible know that they are going to get away with it. The idea that someone might get arrested and imprisoned for sexually harassing a woman seems like a joke”.

Woman activist, Cairo, August 2013

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During August 2012, the Anti-Harassment initiative intervened in five cases of sexual harassment in down-town Cairo. Three survivors reported the case to the police. The remaining two survivors declined to file a complaint because they were afraid of the social stigma or said they felt sorry for the perpetrators. During *Eid el Adha* in October 2012, the “Shoft Taharosh (I Saw Harassment)” initiative documented 730 cases of sexual harassment, of which only three were reported to the police. Of the 253 survivors who shared their testimonies with Nazra for Feminist Studies and other groups combating sexual harassment and assault, following rapes and sexual assaults in and around Tahrir Square in 2012-2013, only a handful have filed complaints.

The lack of available support services also discourages women from filing complaints. In 2010, the CEDAW Committee expressed concern that social support services for survivors of violence suffer from “inadequacy, insufficiency and lack of coordination”.

Egyptian criminal law provides for the possibility of survivors joining a case as civil parties to file for financial compensation. However, Egyptian law does not grant legal aid for survivors who cannot afford to hire lawyers to represent them (as legal aid is provided only for defendants on trial for crimes, or misdemeanours facing imprisonment). Civil society organisations have played an important role in providing victims with the needed legal support.

“Police don’t accept complaints unless the survivor insists. They tell her she will bring shame on her family”.

Lawyer, Cairo, May 2013

When women do try to file complaints, they report not being taken seriously. Complaints can be filed at a police station or directly at the prosecution service. According to a lawyer interviewed, “Police don’t accept complaints unless the survivor insists. They tell her she will bring shame on her family”. In a case documented by El Nadeem Centre, a police officer told the survivor, “If all men who harass a girl have to go to prison for 3 years, then you want to lock up all the men. He didn’t steal something from you so what do you want?”. In another case reported by Fouada Watch/ Shoft Taharosh (I Saw Harassment), in response to a complaint for harassment filed during *Eid el Adha* in October 2012, a police officer said, “May God punish you, you’re a bunch of women with too much free time and are ruining Eid for the kids”. A witness to sexual harassment in Port Said told the delegation that he had reported the incident to the police who responded, “The girls are probably enjoying it”.

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“The police try to imply that it was consensual or that the victim is making it up. They ask ‘Do you know him? Are you accusing him to get him to marry you?’”

El Nadeem Centre, May 2013

“Most of the time, if you go to a police station, they will make fun of it. You have to tell your story hundreds of times. If a woman has been raped, it’s like she’s raped again and again”.

Harassmap, May 2013

In some cases, women filing a complaint have even reported having been harassed by the police. According to a UN Women Study (2013), 14% of survivors who had made a complaint to the police reported being mocked by police and 6% of survivors who reported cases said they had been harassed by the police.

Several respondents reported that some police stations, including El Raml station and Sidi Gaber station in Alexandria, have a reputation of being “hotspots” for sexual assault. One respondent reported going to the police station to report her stolen ID, only to be verbally harassed by the police officers. In another case, a woman was arrested during a protest and taken to

a police station where she was threatened. Police told her “You’re not going to last one night with us. We’re going to make you non-virgins”.

Several survivors reported having been pressured to withdraw a complaint. During *Eid el Adha* in October 2012, one survivor who reported the case to the police was pressured by her family to drop the case. In another case, the survivor received a call from the mother of the suspect pleading for her to drop the charges.

Police officers lack training and expertise on violence against women. The problem is compounded by the fact that there are no women police officers to record complaints inside police stations. According to the police regulations, women are only able to specialise in areas such as passports, medical services, public relations, prisons and juvenile care.

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According to CEDAW General Recommendation 19, “Gender sensitive training of judicial and law enforcement officers and other public officials is essential for the effective implementation of the Convention” (para. 24(b)). Under the UN Model Strategies, states should “promote the use of specialised expertise in the police, among prosecution authorities and in other criminal justice agencies, including through the establishment, where possible, of specialised units or personnel” (para 16). States should “ensure that all police officers, prosecutors and other criminal justice officials receive regular and institutionalised training”. States should also “ensure that police, criminal justice officials and other relevant authorities are adequately trained to identify and respond appropriately to the specific needs of women victims of violence... to receive and treat all victims respectfully with a view to avoiding secondary victimisation; to handle complaints confidentially; to conduct safety assessments and risk management; and to use and enforce protection orders” (para 20).

The UN Model Strategies also urge states to “ensure gender-equitable representation in the police force and other agencies of the justice system, particularly at the decision-making and managerial levels” and “[t]o provide victims of violence, where possible, with the right to speak to a female officer, whether it be the police or any other criminal justice official”.

2.3.4 Investigation and prosecution

Complaints are referred by the police to the prosecution service, which either files charges or reorders an investigation. The survivor, suspect and witnesses

are referred to the prosecution for interrogation the same or following day, and the prosecution can then order the detention or release of the suspect (Article 25 of Law no. 50/ 1950 on Criminal Procedure).

Questioning

According to survivors and lawyers, prosecutors tend to be sceptical of the testimony of the survivors. Many of those interviewed said that prosecutors often tried to imply that the sexual act was consensual or blamed the survivor for having “provoked” it. In an interview with the delegation, an official in the Office of the Public Prosecutor said, “Sometimes a woman files an allegation of rape in order to pressure a man into marrying her, so she can cover up her mistake”. He went on to say, “Girls often make allegations of harassment because they want to break up with a guy”. Officials at the Ministry of Justice told the delegation that “victim testimonies are all not 100% accurate”.

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“Sometimes a woman files an allegation of rape in order to pressure a man into marrying her, so she can cover up her mistake.”

Official, Office of the Public Prosecutor, May 2013

Prosecutors lack training in dealing with crimes of violence against women. Survivors are often asked to repeat their testimonies over and over again, with the risk of re-traumatisation. Such risks are particularly serious in cases of sexual violence, due to the unique trauma that survivors and witnesses of sexual violence suffer (a combination of physical, mental, emotional and psychological harm). Investigators and prosecutors must be trained on how to conduct interviews with survivors and witnesses to ensure that full and accurate evidence is adduced while minimising the risk of re-traumatisation.

Charges

A provision of the Penal Code (former Article 291) which allowed for charges to be dropped if the rapist marries the victim, was abolished in 1998 following years of campaigning by NGOs including the El Nadeem Centre. However, an official at the Office of the Public Prosecutor told the delegation that, in practice, the prosecution may decide not to pursue charges in such a case, in the interests of the ‘family’: “If they marry they will have children and we would not destroy a new family. The case is closed”. According to the official, in the case of a gang rape, if one of the perpetrators agrees to marry the victim, charges may be dropped against all of them.

Prosecutors often decide to prosecute sexual assault as a misdemeanour rather than a crime. In a case filed by El Nadeem Centre concerning a man grabbing a woman in the vagina, the Basateen public prosecution referred the case to the misdemeanour court.

According to lawyers interviewed, there have been cases in which survivors of rape have themselves been charged with prostitution. In one case, a 12-year-old girl was convicted of prostitution after filing a complaint for rape by several men including a police officer.

Evidence

According to officials at the Office of the Public Prosecutor, the most common obstacle to bringing a prosecution is the inability to identify the perpetrator. This means that most cases are filed against an unknown person. However, in many cases, insufficient efforts are made to identify the perpetrator through an investigation. For example, when a member of OpAnti-SH gave his eyewitness account of violent sexual assault by mobs in Tahrir Square to a public prosecutor, he was told, “This is very sad, but it’s done by unknown people”.

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It should be underlined that it is the duty of the police and prosecution, rather than the survivor, to bring a case. Under the UN Model Strategies, states should “encourage and assist women subjected to violence in lodging and following through on formal complaints by... advising [victims] that the responsibility for pursuing charges and prosecuting offenders rests with the police and the prosecution”.

In cases of sexual assault or rape, survivors can be referred to the forensics department. Forensic evidence is key for successful prosecutions in cases of sexual violence. However, forensic personnel tend to be men and lack training in dealing with women survivors and cases of sexual violence. When Yasmine El Baramawy reported that she had been raped by a mob in Tahrir Square in November 2012, the prosecution referred her for a forensic examination for the purposes of gathering evidence of the attack. She reported a humiliating experience. A woman doctor proposed to conduct a “virginity test” on her, despite the fact that she had reported that her aggressors had inserted a sharp object into her anus.

Lack of protection measures

Lawyers interviewed pointed to the absence of measures to protect survivors and witnesses.

Particular concern was raised that survivors cannot remain anonymous. This may contribute to a survivor not reporting a crime or not revealing the full extent of an assault, because of the consequences of it becoming publicly known that she is not a virgin. Protecting the identities of survivors and witnesses from disclosure helps reduce the risk of being re-traumatised or ostracised.

Under international law, victims and witnesses who assist in the investigation and prosecution of crimes of violence against women are entitled to protection. According to the UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Annex, Article 6(d), states should take “measures to minimise inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation”.

45

Under the UN Model Strategies, comprehensive services should be provided and protection measures taken “when necessary to ensure the safety, privacy and dignity of victims and their families at all stages of the criminal justice process... and to protect them from intimidation and retaliation, including by establishing comprehensive witness and victim protection programmes” (para 15).

Such measures can include redacting the name of a person and any identifying information from public records; prohibiting parties and participants to the proceedings from disclosing the name and any identifying information to a third party; using pseudonyms; or conducting proceedings or parts of proceedings in closed session.

2.3.5 Trials and sentencing

The vast majority of cases do not reach trial. According to information available, there have been only a handful of cases of sexual assault which have resulted in conviction. As underlined above, the absence of data makes comprehensive analysis impossible. The following cases are examples.

In 2008, Nuha Rushdi Al-Ostaz, aged 27, was assaulted by a minibus driver. She managed to stop the offender and escort him herself to the nearest police

station. Following a trial, he was sentenced to 3 years in prison “violating the honour of another with the use of force or threats” (*hatak ird*), under article 268 of the Penal Code. This was the first sentence for harassment in Egyptian legal history.

On 5 March 2013, in Abdin, the Court convicted a man who verbally harassed a woman, under Article 306 (bis) (a) of the Penal Code. He was sentenced to a fine of LE2,000 and ordered to pay LE10,100 in compensation.

On 19 March 2013, Giza Criminal court convicted two male students for sexually assaulting two female students in Ain Shams University on charges of “violating the honour of another with the use of force or threats” (*hatak ird*), under article 268 of the Penal Code. The Court sentenced them to two weeks imprisonment.

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In another case in 2013, Lyla El Gueretly, a 30 year-old teacher and activist, was walking on the 6 October Bridge in Cairo, when a 37-year old man made offensive sexual comments towards her from a bus stalled in traffic. When she responded, he got off the bus and slapped her twice. She filed a complaint. On 19 June 2013, the accused was sentenced in absentia to two months in prison and fined LE200 for striking El Gueretly, and one month in prison with hard labour for “directing a lewd word, deed, or gesture to another on a public road”, (*khadsh haya* ‘*ontha fi tarqiq* ‘*am*’), under article 306(bis)(a) of the Penal Code.

On 2 December 2013, ‘Alaa Saad was verbally harassed by a man in his early fifties in Dokki, Cairo. With the help of passers-by, and a traffic policeman, she managed to take the man to Dokki police station. Despite police discouragement from filing a case, she insisted on proceeding. The Prosecution started an investigation the same day and ordered pre-trial detention of the accused. He was charged with “directing a lewd word, deed, or gesture to another on a public road” (*khadsh haya* ‘*ontha fi tarqiq* ‘*am*’), under article 306(bis)(a) of the Penal Code. On 9 December, following trial, the Dokki Misdemeanour Court sentenced him to one year imprisonment. He was also required to pay compensation and lawyers’ fees. On appeal, the sentence was reduced to six months imprisonment. This case presents an important landmark in prosecutions for this type of offence, as, in the absence of other eyewitnesses to the crime, the court relied solely on the testimony of the survivor.

During hearings, protection measures may be necessary to minimise re-traumatisation and facilitate testimony. Under the UN Model Strategies, women subjected to violence should be “enabled to testify in criminal proceedings through adequate measures that facilitate such testimony by protecting the privacy, identity and dignity of the women; ensure safety during legal proceedings; and avoid ‘secondary victimisation’” (para 15). Such measures can include holding proceedings or parts of proceedings in closed sessions; the use of screens to prevent direct visual contact between the survivor or witness and the accused; the provision of evidence via video-link; or the presence of an accompanying support person during the testimony.

However, Egyptian Code of Criminal Procedure does not contain provisions on protective measures. There are no rules excluding evidence, for example, of the survivor’s sexual history. Defence lawyers are free to ask questions and the Court uses its discretion to decide whether questions can “harm the course of proceedings”. There are also no measures for minimising re-traumatisation and protecting the survivor’s identity, such as a screen concealing the survivor from the defendant and the public gallery.

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2.4 Structural violence and discrimination

Sexual violence is fuelled by gender-based discrimination in the society at large. An analysis of violence in the community cannot be dissociated from violence and discrimination in the private sphere. The persistence of adverse cultural norms, practices and traditions, as well as patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society contribute to the persistence of violence against women and harmful practices. In turn, “the consequences of violence contribute to maintain[ing] women in subordinate roles and... to the low level of political participation and to their lower level of education, skills and work opportunities” (CEDAW, General Comment 19).

The UN Special Rapporteur on Violence against women has repeatedly underlined the need to address the root causes of violence by tackling inequalities and discrimination: “States must acknowledge that violence against women is not the root problem but that violence occurs because other forms of discrimination are allowed to flourish”. A holistic approach to combating violence “requires the State to recognise the existence of structural and institutional inequalities related both to individual and structural discrimination. Efforts to end all forms of violence against women must consider not

only how individual lives are affected but how structures of discrimination perpetuate and exacerbate a victim's experience".

Egypt is a state party to a number of international human rights treaties which protect women's rights, including the International Covenant on Civil and Political Rights (ICCPR); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

The CEDAW Convention and other international instruments ratified by Egypt impose binding legal obligations to take all necessary measures to eliminate discrimination against women and to ensure protection from violence, including sexual violence and other gender-based violence.

2.4.1 Discriminatory laws

The Constitution drafted under the Morsi regime and adopted after a referendum in December 2012 reinforced structural inequalities. Although its preamble announced the principle of equality between citizens, it contained no prohibition on discrimination on the basis of sex and referred to women only in their capacity as home-makers and dependants. The UN Working Group on Discriminatory Laws and Practices denounced the fact that "almost no women were represented in the Constituent Assembly charged with drafting the new Constitution" and considered that "women's perspectives were grossly under-represented in the final draft".

Constitution

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Following the removal of President Morsi, a new draft constitution was proposed. It was adopted by referendum in January 2014. The Constitution commits the government to "agreements, covenants and international conven-

tions of human rights” that have been ratified, granting them the force of law (Article 93).

Under Article 9, the “state ensures equal opportunity for all citizens without discrimination”. Article 53 provides that “Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, colour, language, disability, social class, political or geographical affiliation, or for any other reason...The state shall take all necessary measures to eliminate all forms of discrimination, and the law shall regulate creating an independent commission for this purpose”.

Under Article 11, on “The place of women, motherhood and childhood”, “The state commits to achieving equality between women and men in all civil, political, economic, social, and cultural rights in accordance with the provisions of this Constitution”. However, there is a risk that the proviso, “in accordance with the provisions of this Constitution,” may be used to limit the right to equality. The Constitution retains the principles of Islamic Sharia as the main source of legislation. This provision continues: the state “ensures women empowerment to reconcile the duties of a woman toward her family and her work requirements”, reinforcing existing division of gender roles.

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Article 10 on the “Family as the basis of society” may also be used to limit women’s rights within the family: “Family is the basis of society and is based on religion, morality, and patriotism. The state protects its cohesion and stability, and the consolidation of its values”.

For the first time the Constitution makes explicit reference to violence against women. According to Article 11, “the state is committed to the protection of women against all forms of violence.”

Concerning women’s political participation, the state “commits to taking the necessary measures to ensure appropriate representation of women in the houses of parliament, in the manner specified by law”. There is no quota for the political representation of women at the national level; the constitution only set a quota of 25% representation of women in local councils. The Constitution grants women “the right to hold public posts and high management posts in the state, and to appointment in judicial bodies and entities without discrimination” (Article 11).

Family law

Laws in the area of the family or “personal status” continue to discriminate against women, in particular concerning marriage, divorce, the custody of children and inheritance. Discrimination in the private sphere impacts on women’s status in the public sphere, impacting on women’s economic and personal autonomy.

The Personal Status Law (PSL, No. 25 of 1925, as amended in 1979, 1985, 2000, and 2004) applies only to the Muslim majority. Most other faiths apply their own community’s religious standards to family matters. However, the personal status law for Muslims automatically applies in marriages between Muslim husbands and non-Muslim wives. A draft personal status law for non-Muslims was submitted to the Ministry of Justice in 1998 but was never adopted. In 2010, the CEDAW Committee called for the adoption of a unified family law covering both Muslims and Christians.

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Despite reforms to the PSL, many discriminatory provisions remain in force. Egyptian women’s rights and human rights NGOs have called for its immediate and holistic revision. This call was reiterated by the CEDAW Committee in 2010.

Customary “urfi” marriages are not prohibited, yet provide women with no rights: husbands have no obligations to financially support wives. Husbands are only obliged to financially support the children if paternity is proven. The only right a woman has under “urfi” marriage is to file for divorce. If the husband destroys the marriage document, women can be accused of sexual relations outside of marriage; and fathers often refuse to recognise the children of such marriages. Partly due to the financial costs of marriage, customary marriages have dramatically increased over recent years.

Men can divorce their wives (*talaq*) by saying “I repudiate you” 3 times and registering the announcement at a religious notary office within 30 days (PSL, amended in 1985). Women are required to go before a court and prove one of the following grounds: the husband’s illness, including mental illness or impotence; failure to provide maintenance or financial support; absence or imprisonment; or harmful behaviour, such as mental or physical abuse (art. 7-11). Since 2000, women can also seek a no-fault divorce under the *khula* procedure, on the condition that they return the dowry (PSL, as amended in 2000).

According to the 2008 by-law on Coptic Christian marriages, divorce is allowed for men as well as women, on the 10 stated grounds set out in the Law of 1938. In 2011, Egyptian Pope Shenouda announced that a new draft law is being discussed which will amend the 1938 law to limit the grounds of divorce to adultery only.

Women can be granted custody until a child reaches 15 years or the woman remarries (PSL as amended in 2005, art. 20). After the child reaches 15 years old, s/he can choose their guardian.

According to the Inheritance Law (No. 77 of 1943), which applies to all citizens regardless of their faith, women are entitled to half the inheritance granted to men. Under common law, non-Muslim women married to Muslim men have no inheritance rights.

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Under the personal status law, two female witnesses are the equivalent of one male witness in a marital contract, and the testimony of two women is equivalent to that of one man in the family courts, which adjudicate personal status cases. Furthermore, judges presiding over family courts, which are the only courts dealing with family-related disputes, tend not to have the required knowledge and expertise. While there are no women judges in the family courts, social workers are present in every session (most of them are women).

In 2010, the CEDAW Committee called on the Egyptian authorities to undertake a comprehensive review of its personal status laws, ensuring that women and men have equal rights to marriage, divorce, the custody of children and inheritance. The Committee also recommended the adoption of a unified family law on personal status covering both Muslims and Christians. It called for increased efforts to sensitise the parliament, as well as public opinion, regarding the importance of accelerating legal reform aimed at achieving formal equality for women and compliance with the Convention.

Criminal law

The Penal Code does not adequately protect women from violence. There are inadequate definitions and penalties for crimes of sexual violence (see above). Marital rape is not prohibited. Certain provisions condone acts of violence against women by authorising so-called “honour killings”. Articles 237, 17 and 60 can exempt perpetrators from punishment or reduce the sentences imposed in accordance with the judge’s discretion to reduce the sentence, in cases in which a man kills a woman in the name of “honour”, for perceived

moral or sexual transgressions;. In 2010, the CEDAW Committee urged the government to amend these provisions in order to ensure that perpetrators of violence against women do not benefit from any reduction in penalty.

Female genital mutilation (FGM) was criminalised in 2008 (Law No. 126 of 2008) and carries terms of imprisonment from three months to two years and a fine of LE1,000-5,000 . However, doctors are still allowed to perform FGM if there is “medical necessity”. Furthermore, there have been inadequate efforts to implement the prohibition (see below).

Articles 260-263 of the Penal Code criminalise abortions in all cases, without any exceptions for survivors of rape and incest, and when pregnancies threaten a woman’s health.

- 52 Laws on criminal procedure do not adequately address the specific needs of women as survivors of criminal offences, including in terms of protection (see above).

Nationality law

Despite the adoption of the Nationality Law 2004 (No. 154) enabling Egyptian women married to foreign men to transfer their nationality to their children, the implementation of this law remains inconsistent. There have been cases of women married to Palestinians who have been refused this right. Furthermore, the new law does not allow Egyptian women to pass their nationality to their foreign husbands; while Egyptian men can transfer nationality to foreign wives after 2 years of marriage. In 2010, the CEDAW Committee called for urgent reform of this law.

2.4.2 Discriminatory practices and stereotypes

Patriarchal attitudes, traditions and practices and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men persist in all spheres of life. These attitudes and practices perpetuate discrimination against women and girls and contribute to their unequal status in education, public life, decision-making, marriage and family relations, and to the persistence of harmful traditional practices and violence against women.

Egypt has one of the highest rates of female genital mutilation in the world. According to a study conducted by the Egyptian Ministry of Health and

Population in 2003, 94% of married women had undergone female genital mutilation. The last demographic study conducted in 2008 showed that 91.1% of women from ages 15-49 have undergone FGM. In 2008, the practice was criminalised, yet it remains widespread, particularly in rural areas, carried out in private clinics. In 2012-2013, former members of parliament for the Salafi party called for the law to be repealed and religious leaders continue to preach in favour of FGM in rural areas. The CEDAW Committee has expressed serious concern about the persistence and high prevalence of this harmful practice, the serious health complications for girls and women and the impunity of perpetrators.

The low representation of women in political decision-making bodies has not favoured reforms for increased equality. Women remain very under-represented in political positions in the transition process. The Hazem al-Beblawi government included 3 women ministers of environment, health and information. It is important to note that this was the first time that the health and information ministries were headed by women. Previous governments in 2011-2012 included only 2 women ministers out of 31 ministries. The current government includes 4 women heading the ministries of Information, Environment, Manpower and Social Solidarity.

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Under Mubarak, a quota was imposed for female seats in the parliament. In the 2010 elections, 62 women were elected to the reserved seats and one was appointed by the president, representing 12%. The 64 seat quota was then abolished in May 2011 and replaced with a quota of one woman on each electoral list. In practice, few women candidates were nominated and most of them were placed at the bottom of the electoral lists. Women candidates won only 9 seats in the 508-seat parliament and another 2 were appointed by SCAF, representing only 2%. In the 2012 Shura Council elections, women won 4 of the 180 elected seats and 8 were appointed by the President, representing only 4%.

The 2014 constitution imposed a quota of 25% representation of women in local councils. It also guarantees a “fair representation of women” in parliament. However, legislation is required to define a quota.



EGYPT
KEEPING WOMEN OUT

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3. RECOMMENDATIONS

3. Recommendations

A holistic approach is required to tackle the epidemic of sexual violence in Egypt, and make the public space a safe place for women, where they can exercise their right to participate fully in public life, with full respect for their right to bodily integrity.

Comprehensive reforms are required, not only to criminal laws and procedures but also addressing the sources of discrimination against women.

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The current climate of impunity fuels further crimes. Crimes against all survivors, whether committed by state officials or by non-state actors, must be independently, impartially and fully investigated with a view to bringing those responsible to justice.

The authorities must demonstrate the political will to combat sexual violence and other forms of gender-based violence in all its forms,

FIDH, Nazra for Feminist Studies, New Woman Foundation and Uprising of Women call on the Egyptian authorities to adopt the following measures aimed at preventing violence against women, sanctioning perpetrators and protecting survivors.

3.1 To the Egyptian authorities

Ensuring effective investigations and prosecutions

- Conduct independent and effective investigations into all crimes of sexual violence that have taken place since February 2011, in order to hold those responsible accountable, and counter the constant message of impunity.
- Ensure that the Fact Finding Commission (FFC) established by Presidential Decree no. 698/2013 and subsequently restructured by Presidential Decree no. 4/2014, to investigate incidents on and around 30 June 2013 implements the following recommendations:
 - Establish a sub-committee specialised in investigating incidents of sexual violence on and around 30 June 2013. The sub-committee must

work transparently and present its results to the relevant official judicial bodies. Moreover, women who have been trained on how to deal with survivors of all forms of sexual violence must be appointed within the sub-committee as well as the research team. Investigate incidents that specifically affected women. These incidents must include: crimes committed on 30 June (during which 174 cases of sexual violence were documented, including cases of rape, between 30 June and 7 July), at Al-Fath and Al-Tawheed Mosques (August 2013), at Cairo and Al-Azhar University that started in September 2013 and continue to occur at the time of writing, Shura Council protests (26 November 2013), and events on the third anniversary of the 25 January Revolution.

- Organise trainings for the committee members and workers in all sub-committees within the FFC in order to mainstream a gender perspective into their work. Members and researchers in all the sub-committees must also be trained on how to secure and protect the confidentiality of the testimonies and information they obtain throughout their work.
- Establish a truth commission (TC) to focus on gender-based sexual violence with a mandate to cover all incidents that affected women in the various events on and around 30 June. The TC should raise public awareness about past violations in order to contribute to avoiding their re-occurrence and provide recognition to survivors.

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Condemnation

- Call on all political and religious leaders to publicly condemn violence against women, including all forms of sexual violence.

Awareness raising

- Conduct awareness-raising actions on a national scale on combating discrimination and violence against women in all spheres of life.
- Incorporate in all curricula material information on sexual violence which clearly combats the social stigma associated with survivors of these crimes.

Legislative reform

- Reform legislation to criminalise all forms of violence against women, including domestic violence, marital rape and sexual harassment, in accordance with international standards.

- Amend the articles on sexual violence in the Egyptian Penal Code, to include definitions of rape, including anal rape, oral rape, and rape by other parts of the body and objects, and a definition of sexual assault and sexual harassment in accordance with international standards (namely articles 267, 268 and 269).
- Review and reform legislation on personal status to ensure that women and men have equal rights in the family, including in marriage, divorce, custody of children and inheritance.
- Amend Law no. 126 of 2008 on female genital mutilation to prohibit FGM in all cases without exception and ensure the application of the law throughout the country. Continue and increase awareness-raising and educational efforts targeted at both men and women, with the support of civil society organisations and religious authorities, in order to completely eliminate female genital mutilation and its underlying cultural justifications. Such efforts should include the design and implementation of effective educational campaigns to combat traditional and family pressures in favour of this practice, particularly among those who are illiterate, especially parents.

Reform of the justice system

- Ensure that actors in the justice system at all levels (police, social workers, prosecutors, judiciary, forensic officers) receive training on effectively preventing, investigating and prosecuting crimes of sexual violence. They must immediately stop blaming survivors for the violence they endure.
- Ensure survivors of rape and other sexual violence have access to immediate forensic examination, conducted with full respect for the dignity and physical integrity of the survivor.
- Enforce a ban on virginity tests. Ensure that the Forensic Medicine Administration immediately stops conducting virginity tests on survivors of sexual assault and rape, and trains their staff members on how to deal with survivors, and not subject them to additional psychological trauma.
- Take measures to ensure that women and girls who are survivors of violence have access to immediate means of redress and protection, including protection orders, safe shelters and legal aid.

- Ensure proceedings adopt procedures that both protect the survivor from re-victimisation and enable them to provide their best evidence.
- Ensure that physicians and nurses receive training on how to deal with survivors with sensitivity and not subject them to additional psychological trauma; learn how to preserve evidence of sexual assault and rape; provide rape kits in public and private hospitals.
- Ensure that survivors receive adequate reparations, including medical and psychological treatment.
- Ensure that the Unit for Monitoring Violence against Women, affiliated to the Ministry of Interior publicises its mandate, and cooperates with the Ministry of Justice, Ministry of Health and Ministry of Education, to implement a national strategy that combats sexual violence against women.

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Data

- Ensure accurate and up-to-date records on violence against women are maintained and made available to the public.

Participation in public life

- Implement policies aimed at the promotion of the full and equal participation of women in decision-making in all areas of public, political and professional life.
- Adopt temporary special measures, in accordance with CEDAW, Article 4(1) and General Recommendation No. 25, in order to accelerate the full and equal participation of women in public and political life.
- Take the necessary measures to secure the participation of women in the various phases of the electoral process.

Employment

- Ensure equal opportunities for women in the labour market, in accordance with article 11 of CEDAW.
- Adopt effective measures in the formal labour market to eliminate both horizontal and vertical occupational segregation, narrow and close the wage

gap between women and men and apply the principle of equal remuneration and equal opportunities at work.

- Regulate the informal sector to ensure that women in this sector are not exploited and are provided social security and other benefits.
- Enact specific legal provisions to prohibit, and adopt concrete measures to address, sexual harassment in the workplace.
- Amend the Labour Code 2003 so as to introduce a general prohibition of discrimination that would explicitly prohibit discrimination in all aspects of employment, including discriminatory recruitment practices.

Consultation

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- Design and implement all measures in consultation with women's rights and human rights activists.

International obligations and cooperation

- Withdraw reservations to articles 2 and 16 of CEDAW.
- Ratify the Optional Protocol to CEDAW.
- Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).
- Ratify the Protocol to the African Charter establishing the African Court on Human and Peoples' Rights and make the declaration under its article 34.6 allowing direct access to the Court to individuals and NGOs.
- Issue invitations to the UN Special Rapporteur on Violence against women, the UN Working Group on discrimination in law and practice, the ACHPR Special Rapporteur on the Rights of Women in Africa and the ACHPR Special Rapporteur on the situation in Egypt.

3.2 To Members of the UN Human Rights Council

- Continue to call on Egypt, bilaterally and within the framework of the Human Rights Council, in particular its Universal Periodic Review mechanism, to

combat violence against women and girls, sexual harassment and abuse, and to promote gender equality by implementing the above recommendations.

- Continue to call on Egypt to submit overdue reports to treaty monitoring bodies.
- States that made recommendations to Egypt during its first UPR review, in particular Norway, Mexico, Finland, the State of Palestine, the Netherlands and France, should ensure follow-up by requesting information on their actual implementation and recalling Egypt of its commitments and pledges.

3.3. To UN Special Procedures mandate holders

- Continue efforts to document violence against women and all forms of sexual and gender-based violence in Egypt, its causes and consequences
- The **Special Rapporteur on violence against women**, should request the Egyptian authorities to set a date for the visit which they have agreed upon, as a matter of urgency;
- The **Working Group on the issue of discrimination against women in law and in practice** should request a country visit as soon as possible;
- The **Special Rapporteur on torture** and other cruel, inhuman or degrading treatment or punishment should send the Egyptian authorities a reminder as a follow-up to his 1996 and 2007 requests to visit the country. His ensuing mission and report should cover aspects relating to violence against women.

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3.4. To UN Treaty Monitoring Bodies

- Continue to call on Egypt to withdraw reservations that are incompatible with the object and purpose of conventions, in particular the reservations Egypt entered into with regard to articles 2 and 16 of the CEDAW Convention, and to call on Egypt to ratify OP-CEDAW;
- The **CEDAW Committee** should send a new reminder to the Egyptian authorities as to its request to be provided with written information on the steps taken to implement the recommendations contained in paragraphs 16 and 24 of the Committee's concluding observations on Egypt at its last review (2010). Paragraph 16 recommended modification or repeal of discriminatory legislation, while paragraph 24 urged Egypt to give prior-

ity attention to combating violence against women and girls and to adopt comprehensive measures to address such violence, including a comprehensive law criminalizing all forms of violence against women. Egypt has not replied to the Committee's two letters in this regard, dated 17 September 2012 and 20 March 2013;

- The **CEDAW Committee** should send a reminder to the Egyptian authorities as to their eight periodic report, which was due 5 February 2014;
- The **Committee Against Torture** should schedule a review of Egypt's compliance with the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and include violence against women in the list of issues to be examined. It is essential that the Committee review the situation, as Egypt's last review took place in 2002;
- The **Human Rights Committee** should send a reminder to the Egyptian authorities as to their fifth periodic report, which has been overdue since 1 November 2004. The Committee should consider scheduling a review of Egypt's compliance with the International Covenant on Civil and Political Rights in the absence of the state party's report and include violence against women in the list of issues to be examined, pursuant to state parties' obligations, as emphasized by the Committee in paragraph 11 of its General Comment No. 28 on Article 3 (The equality of rights between men and women) and in paragraph 8 of its Draft General Comment No. 35 on Article 9 (Liberty and Security of Person).

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3.5. to the European Union

- Ensure it duly implements the commitments made in 2012, by raising the above issues at the highest level of dialogue, consolidating a genuine and regular consultation process with independent civil society organisations, and adopting a human rights based approach to external assistance delivered to Egypt.
- Draw upon past lessons on the effectiveness of external assistance by targeting women's rights as a priority, adopting appropriate indicators and evaluating results in order to adapt the strategy.
- Conduct a global reflection on Egypt on how to apply the "more for more" approach more effectively and use the range of instruments at its disposal to achieve results.

3. 6. To the African Union

- Consider the elimination of all forms of violence against women, in particular sexual violence, as an integral part of the efforts aimed at consolidating the democratic process and national reconciliation in Egypt, stressing that there can be no democracy or reconciliation without accountability for these crimes.
- Call upon Egyptian authorities to take all necessary measures aimed at ensuring that sexual violence is effectively investigated and prosecuted and that appropriate legislative and judicial reforms are adopted to eradicate it, in accordance with AU human rights instruments.
- Include the ACHPR Special Rapporteur on the Rights of Women in Africa in its next mission to Egypt.
- Meet with civil society organisations, in particular women's rights organisations during its next mission to Egypt.
- Include in its next progress report on the situation in Egypt concrete recommendations for the elimination of sexual violence in the country.

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3.7 To the African Commission on Human and Peoples' Rights

- Publicly condemn the prevalence of sexual violence in Egypt and call upon the authorities to take all necessary measures aimed at ensuring that sexual violence is effectively investigated and prosecuted and that appropriate legislative and judicial reforms are adopted to eradicate it, in accordance with AU human rights instruments.
- Take appropriate measures to monitor Egypt's compliance with its recommendations formulated following examination of Communication 323/2006 (*EIPR v. Egypt*), in accordance with article 112 of its Rules of Procedure.
- Take all necessary measures to ensure that its Resolution 111 is widely disseminated in Egypt, in particular to political and religious leaders, representatives from the criminal justice system, parliamentarians and civil society organisations.

- Request a promotion mission to Egypt, which would pay particular attention to the issue of sexual violence and would involve the Special Rapporteur on the Rights of Women in Africa.
- Call upon the authorities to comply with article 62 of the African Charter by submitting their overdue report and request that the issue of violence against women, in particular sexual violence and the measures undertaken to eliminate it are effectively addressed in this report.
- In accordance with article 45.1 of the African Charter, envisage conducting studies on the issue of sexual violence on the continent and developing guidelines and other principles and rules upon which African governments may base their legislation so as to guarantee that such violence is eliminated.

Appendices

REFERENCES

- Egyptian Centre for Women’s Rights, “Sexual Harassment as Violence Against Women”, January 2013,
- Amnesty International, Egypt: Gender-based violence against women around Tahrir Square (Index: MDE 12/009/2013), 6 February 2013, p10: <http://bit.ly/UXDmGQ>
- UN Women, “Sexual Harassment in Egypt...The Causes and Confrontation Methods”, April 2013, <http://www.un.org.eg/Publications.aspx?pageID=43>
- El Nadeem Centre, Nazra for Feminist Studies, New Woman Foundation, Sexual Assault and Rape in Tahrir Square and its Vicinity: A Compendium of Sources 2011 – 2013, February 2013, <http://nazra.org/sites/nazra/files/attachments/compilation-of-sexual-violence-testimonies-between-2011-2013-en.pdf>
- UN Model Strategies and Practical Measures on the Elimination of Violence Against Women in the Field of Crime Prevention and Criminal Justice
- Nazra For Feminist Studies, The Dispersion of the Rab’aa Sit-in and its Aftermath, September 2013, http://nazra.org/sites/nazra/files/attachments/report_on_police_treatment-with_women_protesters_en.pdf
- Sexual Assault and Rape in Tahrir Square and its Vicinity: A Compendium of Sources 2011 - 2013 <http://nazra.org/en/node/229>
- Brutal Sexual Assaults in the Vicinity of Tahrir Square and an Unprecedentedly Shameful Reaction from the Egyptian Authorities: 101 Incidents of Sexual Assaults during the Events of June 30th 2013 <http://nazra.org/en/node/244>
- Recommendations to the Independent Fact-Finding Committee Tasked with Investigating the Events that Accompanied 30 June to Ensure its Success and Effectiveness. Nazra for Feminist Studies, <http://nazra.org/en/node/285>

- UN Special Rapporteur on Violence against women, its causes and consequences, Report to the General Assembly, The continuum of violence against women from the home to the transnational sphere: the challenges of effective redress, 2011

RELEVANT ARTICLES OF THE EGYPTIAN PENAL CODE

Article 267

Any person who has sexual intercourse with a woman without her consent shall be punished with death or life imprisonment.

The offender shall be punished with death if the victim is under the age of 18, or if the offender is related to the victim or is responsible for her upbringing or care, or is among those with authority over her, or if the offender is a servant in her employ or the employ of one of the aforementioned individuals, or if more than one offender is involved in the crime.

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Article 268

Any person who violates the honour of another with the use of force or threats, or attempts to do so, shall be punished with a term of strict imprisonment.

If the victim of the crime is under the age of 18 or the offender is among those persons enumerated in the second paragraph of Article 267, the term of strict imprisonment shall be no less than seven years; if these two conditions apply, the offender shall be sentenced to life imprisonment.

Article 269

Any person who violates the honour of a boy or girl under the age of 18 without the use of force or threats shall be punished with imprisonment.

If the victim is under the age of 12 or the offender is among those persons enumerated in the second paragraph of Article 267, the penalty shall be a term of strict imprisonment of no less than seven years.

Article 269 (bis)

A prison term of at least three months shall be imposed on any person who on a public road or populated place incites passers-by to depravity with gestures or words. If the perpetrator re-offends within one year of conviction of the same crime, the penalty shall be a prison term of at least one year and a fine of at least LE500 and no more than LE3,000. If convicted, the offender shall be placed under police probation for a term equal to his sentence.

Article 278

Any person who commits a lewd, indecent act in public shall be punished with a prison term of no more than one year and a fine of no more than LE300.

Article 306 (bis) (a)

A prison term of at least six months and no more than two years or a fine of at least LE500 and no more than LE2,000, or both, shall be imposed on any person who directs a lewd word, deed, or gesture to another on a public road or in a populated area.

The penalty of the foregoing paragraph shall apply if the indecency takes place over the telephone or via any means of communication, wireless and otherwise.

If the offender commits a crime stipulated in the foregoing two paragraphs within one year of his conviction of the same crime, the penalty shall be a prison term of at least one year and a fine of at least LE1,000 and no more than LE5,000.

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DRAFT LAWS ON VIOLENCE AGAINST WOMEN

NGO Task Force on Sexual Violence Proposed amendments to the Penal Code on sexual violence

In December 2008, a group of 16 NGOs formed the Task Force for the Prohibition of Sexual Violence, coordinated by the New Woman Foundation. They proposed amendments to the Penal Code to include crimes of sexual violence and address loopholes. The draft law was submitted to the People's Assembly in 2010 but parliament was dissolved in January 2011. It was re-submitted to the People's Assembly in 2012 but was never tabled for discussion. It was submitted again to the Hazem el-Biblawi government in 2013, but the Task Force has not yet received a response.

This draft proposes reform to the definition of rape so that it is not restricted to penis-vaginal intercourse. The draft replaces the term 'hatk 'ird' (which refers to violating a victim's honour) with 'sexual crimes'. Under amended article 268, sexual assault is defined as "any lewd action directed at the victim's body and private parts that does not reach the level of rape". It removes the requirements of 'force' or 'threat' and adds the criterion of the victim's lack of consent. Sexual assault is punishable by 3 to 7 years imprisonment.

The draft defines ‘sexual harassment’ (article 269 (bis)) as “the act of following or pursuit with direct or indirect sexual or lewd messages, or delivering such messages via telephone, the internet, or other modern means of communication, or sending messages containing sexual images, text, or figures”. It sets the punishment at one year imprisonment, or a fine, or both.

It also proposes two additional articles, one specifically criminalizing the rape of children and the other preventing the dismissal of charges should the victim decide not to pursue a complaint. The draft also proposes amendments to prevent a judge using his discretion to impose a lighter sentence in cases of sexual crimes.

68 *Having reviewed the Penal Code (Law 58/1937):*

Article 1

The phrases “violation of honour” and “moral corruption” shall be replaced with the phrase “sexual crimes” in the title of Chapter Four of Book Three of the Penal Code.

The phrase “Part One: Sexual Violence” shall be added before Article 267, while the phrase “Part Two: Crimes of Adultery and Obscene Acts” shall be added before Article 273.

Article 2

Articles 267, 268, 269, 269 (bis), 289, and 290 of the Penal Code shall be replaced with the following passages:

Article 267

Any person who rapes another shall be punished with life imprisonment or a term of strict imprisonment.

Rape is the vaginal, oral, or anal penetration of the victim, or compulsion to penetrate, without the victim’s consent, whether such penetration involves the sexual organs or any other instrument.

The offender shall be punished with life imprisonment if he is related to the victim, responsible for the victim’s upbringing or care, or exercises authority over the victim, or if he is a paid servant in the victim’s home or that the home of of the aforementioned persons, or a person affiliated with a public authority, or if the victim is a child or has a cognitive or physical disability.

Article 268

Any person who sexually assaults another shall be punished with a term of strict imprisonment of at least three years and no more than seven years. Sexual assault is considered lewd action directed at the victim's body and private parts that does not reach the level of rape, perpetrated without the victim's consent.

If the perpetrator is one of the persons set out in the second paragraph of Article 267, he shall be punished with a term of strict imprisonment of at least five years.

Article 269

Any person who sexually assaults a male or female child under the age of 16 shall be punished with a term of strict imprisonment; in this case, the consent of the victim is irrelevant.

Article 269 (bis)

Any person who sexually harasses another without his or her consent shall be punished with a prison term of no more than one year, or a fine of at least LE500 and no more than LE5,000, or both.

Sexual harassment is the act of following or pursuit with direct or indirect sexual or lewd messages, or delivering such messages via telephone, the internet, or other modern means of communication, or sending messages containing sexual images, text, or figures.

If the perpetrator is one of the persons set out in the second paragraph of Article 267, a prison term is compulsory.

Article 289

Any person who abducts a child under the age of 16 without deceit or force, whether himself or through another, shall be punished with a prison term of at least three years and no more than ten years.

Article 290

Any person who abducts another with the use of deceit or force, whether himself or through another, shall be punished with a term of strict imprisonment.

The perpetrator shall be sentenced to life imprisonment if the crime is accompanied by the rape of the abductee.

Article 3

Articles 279, 288, and 306 of the Penal Code shall be repealed.

Article 4

Two new articles, 267 (bis) and 290 (bis), shall be added to the Penal Code, as follows:

Article 267 (bis)

A term of life imprisonment shall be levied against any person who rapes a male or female child under the age of 16; in this case, the consent of the victim is irrelevant.

Article 290 (bis)

With regard to the felonies enumerated in Articles 267, 267(bis), 268, 269, 289, and 290, the court may not apply the provisions of Article 17 and impose an alternative penalty, except as follows:

- Life imprisonment may be replaced with the maximum term of strict imprisonment.
- A term of strict imprisonment may be replaced with a prison term.
- A prison term (sentences for crimes) may be replaced with a jail term (sentences for misdemeanours), provided it is no less than six months.
- In its judgement the court must explain the grounds for the alternative penalty, subject to review by the Court of Cassation.

Article 5

This law shall be published in the Official Gazette. It shall enter into force the day following publication.

Explanatory memorandum on amendments to the Penal Code on sexual violence

Crimes of sexual violence have spread in Egyptian society, and these crimes have a negative psychological and physical impact on the victims and society. Yet, the Penal Code in its current form does not provide full protection from all forms of sexual violence, nor does it offer adequate protection to victims of violence. Articles related to sexual violence in the Penal Code contain numerous loopholes, and these laws are still based on inappropriate conceptions of violence and entail unjustifiable discrimination between men and women.

This draft law aims to offer a comprehensive vision for the protection of all citizens from all forms of sexual violence. This vision is based on several principles, including equality between men and women and the need to provide

special protection for children. This draft law adopts specific, clear definitions of various crimes and includes all types of sexual violence, bringing them together in one chapter of the Penal Code. The draft law also seeks to make the penalties commensurate with the severity of the crimes.

Equality between men and women and special protection for children

Under the Egyptian Constitution and Egypt's international commitments, the legislator is obligated to ensure complete equality between men and women in all national laws and amend any discriminatory articles. Nevertheless, the Criminal Code in its current form does discriminate, without justification, between men and women in the crime of rape. A man who is raped has no protection under Article 267, which is specific to sexual intercourse with women. Instead, the perpetrator is subject to a lesser punishment under Article 268 on the violation of honour ('hatk 'ird'), although the crime is equally severe in both cases. Similarly, the articles on abduction and abduction with rape discriminate between women and men. As such, this draft law amends some articles and deletes others to guarantee gender equality in crimes of sexual violence.

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Regarding children and sexual crimes, here, too, under the Egyptian Constitution and Egypt's international commitments, the legislator is obliged to provide special protection for children under the age of 18, while considering the development of the child's capacities in accordance with age. This draft law thus imposes harsher penalties for the rape, sexual assault, or sexual harassment of a child. In addition, according to General Comment No. 4 issued by the UN Committee on the Rights of the Child, the legislator should set a minimum age of consent that expresses the child's capacities and adolescent development. The unified age of consent in this draft law is 16 for the crimes of rape, sexual assault, and abduction, meaning that the victim's consent is irrelevant under that age. This rectifies the present confusion in the articles at hand, which specify seven as the "age of discrimination," but do not specify a particular age in which the child's consent is irrelevant in the case of sexual intercourse. In the crime of the violation of honour, the law currently sets an age of 19, while in abduction the age is currently 16.

Clarification of terms

The current Criminal Code criminalizes several types of sexual violence under three separate chapters of the Penal Code. Sexual intercourse and violation of honour are included in Chapter Four on the ‘violation of honour’ and ‘moral corruption’. The same chapter includes crimes of adultery and obscenity. In Chapter Five, the law criminalizes abduction with intercourse, as well as other types of abduction, under the general heading of “the unlawful seizure and detention of persons, the theft of children, and the abduction of girls.” The harassment of women is addressed in Chapter Seven on libel, slander, and the disclosure of secrets.

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Moreover, in its current form, the law defines many crimes of sexual violence as crimes against morals or as lewd acts rather than crimes against the victims themselves, and the terminology used is not precise. Therefore, this draft law uses the appropriate terms—rape, sexual assault, and sexual harassment—while providing definitions to make the difference between the crimes clear and precise.

The terminology was amended to make rape any sexual penetration without consent, whether of a man or woman. Sexual assault refers to every assault on a person and his or her intimate parts that stops short of rape. In this case, the lack of consent is a material element of the crime rather than the use of force or threat, for lack of consent is a broader concept that includes conditions that may not involve the use of force or threat, such as coercion and surprise. Sexual harassment includes lewd acts and words that stop short of sexual assault.

In light of these definitions and conceptions, after Article 269 (bis) was amended to criminalize all forms of sexual harassment, it was only logical to refrain from enumerating the actions previously criminalized by this article—inciting passers-by to depravity on a public road or place—because these actions are also criminalized in articles on obscene acts on a public road and the law need not make special mention of them here. By the same logic, and motivated by a desire to avoid repetition and the criminalization of the same act more than once, Article 306 (bis), which criminalized interfering with a female in a lewd way by word or deed on a public road or place, was deleted, as these actions are criminalized under Article 269 (bis).

In addition, Article 279, which criminalized any lewd act with a woman, even in private, was dropped, given that the Court of Cassation ruled that Article 279 required an addition to specify that the lewd act was perpetrated against the woman without her consent. It is therefore unnecessary to maintain this article, since such acts are necessarily criminalized in the articles on rape, sexual assault, and sexual harassment.

Seeking cohesion and rationality, this draft law brings together the crimes of rape, sexual assault, and sexual harassment in one chapter under the heading of sexual violence. This chapter is the first chapter of Part Four ('sexual crimes'), which includes a second chapter on the crimes of adultery and obscenity.

Penalties commensurate to the crime and restricting the use of Article 17

This law seeks to levy penalties that are commensurate with the actions criminalized, neither overly severe nor overly lenient, while also restricting the judge's discretionary authority to apply Article 17 of the Penal Code in cases of rape, sexual assault, and abduction. This draft law permits judges to reduce the penalty by one degree only, provided the judge explains the grounds for clemency in his ruling, with the grounds subject to review by the Court of Cassation.

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Organizations participating in the Task Force: Al-Sawahliya Association for Social Development, Suez; Women and Development Association, Alexandria; Association for Human Rights Legal Aid; Egyptian Association for Community Participation Enhancement; Port Fouad Association for the Care of Family and Childhood, Port Fouad; Association for Local Community Development, al-Shaloufa, Suez; Kilmitna Association for Dialogue and Development; Al-Ulaymi Attorneys at Law; New Woman Foundation; Egyptian Foundation for Family Development; Helwan Foundation for Social Development (Beshayer); Sahm al-Thiqa Foundation for Social Development, Ismailiya; Egyptian Initiative for Personal Rights; Mubadirun for the Support of Cultural Development and Media, Port Said; Egyptian Center for Economic and Social Rights; El Nadeem Center for the Rehabilitation of Victims of Violence; Freedom Center for Human Rights, Port Said; Raswa Center for Human Rights Studies, Port Said; Hisham Mubarak Law Center; Appropriate Communications Techniques for Development (ACT); Arab Law Office; Women's Development Forum; Civil Democratic Forum, Suez. Attorneys: Ahmed Fathi; Ziad al-Ulaymi; Taher Abu al-Nasr; Mohsen Bahnasi.

Egyptian Centre for Women's Rights (ECWR) Draft law on the criminalization of sexual harassment

This text was drafted by the Egyptian Centre for Women's Rights in 2008. It was submitted to the parliament in 2008 but received no response. It was submitted to the newly elected parliament in 2011 and to the Presidency in August 2012.

It proposes an additional article in the Penal Code (article 278 (bis)) creating an offence of sexual harassment, which is defined as “deeds such as touching, pursuit, stalking, or other action, or explicit or implicit sexual or obscene words, or via telephone, the internet, or messages containing sexual images, texts, or inscriptions”, committed “against a person’s will”. Sexual harassment is punishable with imprisonment of no more than one year or a fine of no more than LE2,000, or both. It provides for more severe penalties depending on the circumstances of the commission of the offence and the vulnerability of the victim.

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Law XX/2008, amending Law 58/1937

*In the name of the people,
The President of the Republic,
The People’s Assembly has adopted the following law and we hereby promulgate it:*

Article 1

The phrase “violation of honour and the corruption of morals” shall be replaced with the phrase “the violation of honour, sexual harassment, and the corruption of morals” in the title of Chapter Four of Book Three of the Penal Code.

Article 2

Article 278 (bis) shall be added to the Penal Code.

Article 278 (bis)

Any person who sexually harasses another person, whether male or female, against that person’s will, shall be sentenced to a term of imprisonment of no more than one year or a fine of no more than LE2,000, or both. Harassment is constituted by deeds such as touching, pursuit, stalking, or other action,

or by explicit or implicit sexual or obscene words, or via telephone, the internet, or messages containing sexual images, texts, or inscriptions.

If the harassment is perpetrated by a person with authority over the harassed person or by exploiting work conditions, or if it targets a family member or a person in the care or instruction of the harasser, the penalty shall be two years imprisonment and a fine of LE2,000.

If the harassment is perpetrated by more than one person or with the use of weapons or under threat, or results in an injury or wound, the penalty shall be three years imprisonment and a fine of no more than LE5,000.

If the harassment is perpetrated against a minor, a person with a mental or physical disability, or a person with a psychological or mental illness, the penalty shall be a term of imprisonment of at least one year and no more than three years.

The judge may impose any other measures he deems appropriate (refer to the implementing regulations for details on the concept of authority and conditions).

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National Council for Women Draft law on violence against women

This draft was prepared by the National Council for Women (NCW) in April 2013. It was submitted to the Shura Council in May 2013 and to the Presidency in June 2013. Following the dissolution of the Shura Council in July 2013, the President of the NCW, Mervat Al-Telawi, announced that the draft law would be submitted to the future People's Assembly.

Civil society was not consulted during the drafting process. The draft law has been criticized by a number of NGOs for its lack of detail and use of vague terminology.

The first chapter of the draft law provides definitions of violence against women which includes rape, sexual harassment, sexual exploitation, denial of inheritance and any act that physically or morally harms women, or denies their public and private rights. The definition of rape does not comply with the definition under international law. It covers all "sexual violations" adding a subjective requirement relating to the intention of the perpetrator ("with the intent of gratifying the offender sexually or for any other purpose").

The second chapter contains provisions on forced marriage, child marriage, denial of inheritance, domestic violence, prevention of education and work, and violations of equal opportunities at work.

The third chapter contains provisions on rape, sexual exploitation, and sexual harassment. The text maintains language relating “honour” (article 11).

Sexual harassment includes indecently assaulting a female by use of force or threat, exposing or touching her private parts, harassment in the workplace and harassment via modern communication. It is punishable by no less than one year imprisonment. In cases of repeat offending the penalty is between 3 and 5 years imprisonment.

The draft establishes a fund for the rehabilitation and protection of victims of violence. It also establishes a unit for the protection of witnesses.

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Chapter One: Definitions

Article 1

In enforcing the provisions of this law, the following definitions shall apply:

- a. “Violence against women”: Any action or conduct that entails material or moral harm or suffering for a woman, including threat, coercion, or the arbitrary denial of public or private rights.
- b. “Rape”: Conduct or an action that constitutes a sexual violation through the use of the victim’s body in any way or using an implement or any other means, with the intent of gratifying the offender sexually or for any other purpose.
- c. “Sexual harassment”: Actions, words, or gestures that are sexually suggestive or include an invitation to engage in sex by any means.
- d. “Sexual exploitation”: The degradation of a woman’s dignity through the exploitation of her body for sexual attraction and enticement with the intent realizing commercial or promotional interests in a way that contravenes religion and morals.
- e. “Denial of inheritance”: Prohibiting a woman from obtaining her lawful inheritance by an action or conduct during the life of the legator or after his death.

Chapter Two: Crimes of violence against women

Article 2

Any person who marries a female before she reaches the legal marriage age, or participates in this, shall be punished with a prison term. A term of strict imprisonment shall apply if the marriage takes place pursuant to deception or based on falsified documents.

Article 3

Any person who compels a female to marry shall be punished with a jail term of at least six months or a fine of at least LE20,000, or both.

Article 4

Any person who denies a female her inheritance, or is among the heirs and benefits from this denial, shall be punished with a jail term of at least six months or a fine of at least LE20,000, or both.

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Article 5

Any person who commits a violent act or conduct with a member of his family shall be punished with a jail term of at least six months or a fine of at least LE20,000, or both.

Article 6

Any person who denies compulsory education to a female in his custody shall be punished with a jail term of at least six months or a fine of at least LE10,000, or both.

Article 7

Any person who denies a female the right to work in enterprises in which the law permits her to work, simply because she is female, shall be punished with a jail term of at least six months or a fine of at least LE10,000, or both.

Article 8

Any person who commits an act or conduct infringing on the right to equality and equal opportunity between men and women in the sphere of work shall be punished with a jail term of at least six months or a fine of at least LE10,000, or both.

Chapter Three: crimes of violence against women, sexual exploitation, and moral corruption

Article 9

Any person who has sexual intercourse with a female without her consent shall be punished with death or life imprisonment.

The offender shall be punished with death if the victim is under the age of 18 or has a cognitive or psychological disability, or if the offender is related to the victim, charged with her upbringing or care, or exercises authority over her, or is a paid servant in her home or that of the aforementioned persons, or is a person who frequents the home due to his work, or if there is more than one perpetrator of the crime.

Article 10

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Any person who rapes a female by committing any act or conduct that constitutes a sexual violation through use of the victim's body in any way or using an implement or any other means, with the intent of gratifying the offender sexually or for any other purpose shall be punished with a term of strict imprisonment.

The offender shall be punished with a term of strict imprisonment of at least seven years if the victim is under the age of 18 or has a cognitive or psychological disability, or if the offender is related to the victim, charged with her upbringing or care, or exercises authority over her, or is a paid servant in her home or that of the aforementioned persons, or is a person who frequents the home due to his work.

If the victim is under the age of ten, or any of the aggravating circumstances enumerated in the foregoing paragraph apply, or if there is more than one perpetrator of the crime, the penalty shall be life imprisonment.

Article 11

Any person who violates the honour of a female by force and threat, gravely infringing on her modesty through physical assault, whether by exposing or handling her private parts, shall be punished with a prison term.

If the victim is under the age of eight or has a cognitive or psychological disability, the penalty shall be a term of strict imprisonment.

Article 12

Any person who harasses a female by following or pursuing her, whether with gesture, word, in writing, by modern communication methods, or by any other means, thereby committing unwelcome, sexually suggestive acts

or indecent acts in a public or private place shall be punished with a jail term of at least one year or a fine of at least LE10,000, or both.

If the offender commits the same type of crime within one year of a final conviction of the first crime, the penalty shall be a jail term of three–five years and a fine of at least LE5,000, and the convict shall be placed under police probation for a term equal to his sentence.

Article 13

If the act criminalized in the foregoing article is committed in a public place, or if the offender is the employer or a person with authority over the victim at work, the penalty shall be a jail term of at least three years and a fine of at least LE10,000.

Article 14

Any person who obtains private images of a female by any means and threatens to release or publish their contents, or alters and distorts them by modern technological means to make them obscene images and threatens to publish them, shall be punished with a prison term.

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Article 15

Any spouse who releases or discloses by any means indecent images of the other spouse or facts of the intimate relationship, or threatens to publish or disseminate them, whether during the marriage or after, shall be punished with a jail term of at least one year or a fine of at least LE10,000, or both.

Article 16

Any person who photographs, disseminates, or publishes by any means indecent, lewd images or images of a sexual relationship shall be punished with a jail term of at least one year and a fine of at least LE2,000.

Article 17

Any person who uses the body of a woman in an inappropriate way with the intent of realizing material or promotional gain shall be punished with a jail term or a fine of at least LE5,000, or both.

Chapter Four: Protection for victims and witnesses of violence against women

Article 18

The state is obligated to take all measures necessary to protect women from all forms of violence.

Article 19

The state is obligated to provide aid and services to victims of violence without remuneration.

Article 20

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A fund for the care and rehabilitation of victims of violence and their families shall be created. It shall have legal personality. Its internal organization and prerogatives shall be determined by presidential decree, and its resources shall include the fines paid pursuant to crimes enumerated in this law.

Article 21

If a crime of violence results in a serious illness, disability, or impediment, the victim shall enjoy the rights of the disabled as established under the disability law or any other laws.

Article 22

The Ministry of Social Affairs shall establish the necessary institutes and facilities to provide rehabilitation services to victims of violence. It may license the establishment of these institutes and facilities in accordance with the conditions and circumstances defined by the implementing regulations of this law.

Article 23

The Ministry of Interior shall establish a unit to combat violence against women in every police station, formed by decree of the interior minister. It shall include the requisite number of policewomen, social workers, and psychologists, to be nominated by the Ministry of Social Affairs, and doctors, to be nominated by the Ministry of Health, provided that all candidates meet the conditions enumerated in the implementing regulations of this law.

Article 24

The anti-violence unit shall use all modern methods to substantiate the facts of the crime. It may conduct tests and take the necessary samples to prevent the loss of the traces of the crime and preserve evidence.

Article 25

Information given by complainants and victims of violence to the anti-violence unit, the investigating bodies, and at trial shall be considered confidential information which cannot be released except by request and for reasons deemed sufficient by the competent investigating judge or the misdemeanour appeals court, convened in chambers.

Article 26

The Public Prosecution shall issue orders for temporary financial aid when necessary and at its discretion, or based on the request of a relevant party; it shall be disbursed from the victim care fund.

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Article 27

A defendant who refuses to comply with a protection order issued by the Public Prosecution shall be subject to a fine.

Article 28

The Ministry of Justice shall establish a special directorate for the protection of witnesses, experts, technicians, criminal evidence experts, and others. The directorate shall take all measures and guarantees to protect them and preserve their lives and remove all barriers to their testimony or the provision of technical expertise.

Article 29

Witnesses shall be considered public servants during the investigation and trial. Assaults on any of their progenitors or offspring or their property, or a threat thereof, with the intent of influencing their testimony shall be considered an aggravating circumstance for sentencing, without prejudice to any severer penalty enjoined by another law.

Article 30

The court may hear the victim, witnesses, and experts using modern means of communication or through judicial deputation.

Article 31

The information given by witnesses to the investigating authorities or at trial shall be considered confidential information that may not be disclosed except by request and for reasons deemed sufficient by the court. Any person who discloses information given by the witness in violation of the law shall be subject to criminal punishment.

Chapter Five: General provisions

Article 32

The state is obligated to support and encourage civil society to establish associations that aim to raise awareness of violence, provide rehabilitation to victims, or offer legal aid to them.

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Article 33

The National Council for Women shall be competent to monitor the effectiveness of this law and submit regular reports to the President.

It has the right to intervene on behalf of the victim in lawsuits for compensation for harm arising from violence and to appeal judgements issued in these suits.

Article 34

The penalties stipulated in this law shall not prejudice any other penalties enjoined in other laws.

Article 35

The prime minister shall issue the implementing regulations of this law within six months of its issuance.

Article 36

The provisions of this law shall enter into force on the day following publication in the Official Gazette; any provision in any other law that contravenes this law is hereby abrogated.

Al Nadeem Center for the Rehabilitation of Victims of Violence

Draft law for the protection of women from domestic violence

This text was drafted by the El Nadeem Centre in 2005 and was the subject of national dialogue until 2009. The dialogue included diverse segments of Egyptian society across 70% of governorates (including women receiving literacy classes, lawyers, judges, media personnel, and board members of development organisations that provide services to women). The draft was submitted to parliament in 2008, as well as to members of both houses of parliament and relevant national councils. It was submitted again to parliament in 2009 and was adopted by the head of parliament and referred to the “recommendations and complaints” committee. A new campaign was launched after 2011, and the draft was opened for signature for Egyptian and Arab non-governmental organisations (170 NGOs signed the draft including 56 from the Arab region, as well as more than 2000 individual signatures). The draft was submitted to the Hazem el-Biblawi government in 2013, however it never received a response.

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The first chapter of the draft law defines domestic violence as “any gender-based violent act which results or may result in physical, psychological, or sexual harm or suffering for the woman, including threats to commit such acts, compulsion, and the denial of freedom, by a member of the family with power or authority over or a relationship with the victim”.

The second chapter sets out the procedures for filing a complaint, which can be lodged by anyone who knows about the violence, including civil society organisations.

The third chapter sets out precautionary measures to protect victims as well as the provided services for their rehabilitation.

The fourth chapter sets out the penalties for crimes of domestic violence; in relation to instances in which the Penal Code is not applicable, the draft prescribes alternative penalties including the referral of the perpetrator to a rehabilitation centre, or community service. The draft also proposes that if there is a violation of the protection order, or infliction of grave bodily harm, or if the victim is disabled, elderly, or a child, then the penalties of the Penal Code shall be increased.

Having reviewed the constitution of the Arab Republic of Egypt, the Egyptian Penal Code, the Code of Criminal Procedure, Personal status laws, The Family Court Law, international conventions and treaties signed by Egypt, and the opinions of the State Council, the People's Assembly has approved the following law and promulgated it:

Article 1

The provisions of this law shall apply to crimes of domestic violence pursuant to the general definition in Article 6 and the detailed definitions contained in the implementing regulations of this law.

Article 2

The provisions of this law shall be applied when there is no relevant provision in the Code of Criminal Procedure.

Article 3

All competent bodies must enforce the provisions of this law in all matters that concern them.

Article 4

All provisions in any other law that contravene the provisions of this law are hereby abrogated.

Article 5

This law shall be published in the Official Gazette and it shall enter into force one month after publication.

Chapter One

Article 6: Definitions

Defining the crime of violence against women in the family

Crimes of domestic violence against women include any gender-based violent act which results or may result in physical, psychological, or sexual harm or suffering for the woman, including threats to commit such acts, compulsion, and the denial of freedom, by a member of the family with power or authority over or a relationship with the victim.

1. Administrative body: Ministry of Social Solidarity
2. Directorate for the Protection of Women from Violence: a special directorate established by ministerial decree in the Ministry of Social Solidarity.

3. The competent committee: the Committee to Receive Complaints, a committee created by agreement of the Ministry of Social Solidarity and the Minister of Interior to receive reports of violence against women in the family; at least half of its members shall be women.
4. The competent prosecution: the Family Prosecution.
5. The competent court: the Family Court.
6. Family Bureaus: bureaus to be created by decree of the minister of social solidarity in conjunction with relevant civil society institutions; their tasks include premarital counselling, the examination of problems of domestic violence, and the provision of psychological, social and legal counselling for members of the family. They will also form units for the psychological rehabilitation of victims and offenders.
7. The home: the family home or the place of residence of the victim and the offender.
8. Safe house: houses hosting women exposed to violence, to be created by decree of the Ministry of Social Solidarity; staff shall be trained in conjunction with civil society institutions working in violence against women.

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Chapter Two: Mechanisms for submitting complaints and action to be taken

Article 7

The victim or a witness to a crime of domestic violence, particularly members of the family or residents of the building, or any person who has knowledge of the crime, in particular medical service providers or centres offering aid to victims of domestic violence, whether governmental or civic bodies, shall have the right to file a complaint with the committee charged with receiving complaints in that geographic area.

Article 8

The competent committee or one of its members must immediately respond to complaints of crimes of domestic violence and go to the site of the crime, especially if the complaint was not filed by the victim, to enable the victim to make a statement. In all cases, the following procedures must be followed:

- Inform the victim of her rights under the law.
- Listen to the parties and witnesses and enable children to give their statements freely and safely.
- Record the complaint in detail.
- File a domestic violence report and take action on it as dictated by law.

- Take the necessary measures to move the victim to the nearest hospital or health center for treatment when necessary.
- Take the necessary measures to remove the offender from the home if it is established that his presence constitutes a danger to the victim until such time as a protection order is issued.
- Take the necessary measures to protect the victim and children by taking them to a safe place or a shelter, particularly if the crime occurred at night, after official working hours, or on official vacation days, pending the issuance of a protection order if it is impossible to remove the offender from the home.
- Provide protection to the person who reported the incident of domestic violence, including refraining from disclosing the person’s name or identity unless required by judicial procedures.

Article 9

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The victim of a crime of domestic violence against women shall have the right to apply for a precautionary protection order from the Family Prosecution. The Committee to Receive Complaints must submit the application for a protection order, and the order shall be issued within 24 hours of submission.

Article 10

The protection order shall include measure(s) sufficient to prevent the offender from causing additional harm to the victim or other persons in his support or care, such as:

- Require the offender to leave the home, in which case the court shall not adjudicate the claims of either party to the domicile or moveable property.
- Prohibit the offender from contacting the victim at home, the workplace, or the safe house.
- Enjoin against interference with the victim or the person who submitted the complaint.
- Refrain from harming the personal property of the victim and enable her or a surrogate to enter the family home with a certified employee and obtain her personal property, pursuant to a receipt form signed by the recipient.
- The prosecution may refer the offender to the family counselling bureaus provided it meets with the consent of both parties and does not conflict with the precautionary protection measures.

Article 11

If the Family Prosecution decides that there is no basis for a criminal suit based on the investigation before it, it must cite the specific reasons for its

decision; the victim has the right to appeal the decision with the Family Court within 30 days.

Chapter Three: Precautionary measures

Article 12

The competent bodies must add several conditions to the marriage contract to protect the basic rights of women. The woman has the right to forgo this right or add other conditions at the time of contract. These rights include her right to divorce herself whenever, wherever, and however she wishes, as well as the right to travel and movement, the right to education, the right to work, and the right to prevent her husband from marrying another woman without her written consent.

The administrative body, in conjunction with civil society organisations, the National Council for Woman, and the National Council for Motherhood and Childhood, shall establish Family Bureaus in every geographic locale staffed to deal with cases of violence, to include social workers, general medical practitioners, psychologists, and lawyers, with the proviso that their medical and legal reports shall be treated as those issued by expert offices, and this in the following:

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Both spouses must obtain counselling at these centres for one week, to include:

1. How to treat one's wife and children in the context of the family relationship.
2. How to cope with domestic problems.
3. The marriage shall not take place unless both spouses have obtained a counselling certificate.
4. In the case of marriage, the spouses may turn to this committee as a counselling body to resolve disputes or request advice in marital disputes.
5. Women subjected to violence have the right to consult these bureaus in the event of domestic violence to seek medical, psychological, or legal advice; they also have the right to request a medical report documenting any material or psychological injuries sustained.

Article 13

The administrative body must provide the following services:

- Establish an adequate number of appropriate safe houses for women victims of violence, giving due consideration to the extent of the geographic area served.
- Place children under 15 with their mothers in shelters or provide a safe place for them in the same area if they are over the legal age.

- Offer emergency services for victims, to include medical and psychological care, transportation, shelter, treatment, food, and legal advice.
- Provide sufficient information about service providers and means to access services for a longer period when necessary.
- All bodies must maintain the confidentiality of all communications and domestic violence procedures for the victim and her family.
- The administrative body and the Family Bureaus in the Family Courts must release an annual report including but not limited to the following information:
 - Number of complaints, number of reports filed for victims of both sexes, adults and children, number of complaints investigated, and the average response time to complaints by the competent committee.
 - Type of action taken by the police on the complaint, including the number of persons arrested, the number of cases referred to the courts, the geographic distribution of domestic violence, the age of victims and offenders, the causes of violence in each crime, and the type of violence.

Article 14

The administrative body must establish counselling service units in every Family Bureau to undertake the following:

- Offer guidance, training, and aid to help victims of violence find jobs to earn an income that will enable to be self-reliant.
- Offer rehabilitation services to victims and offenders of domestic violence and help them shoulder their social responsibilities.
- Offer programs for specialised social services appropriate for victims of domestic violence.

Article 15

The Interior Ministry in conjunction with the administrative body is obligated to create a special office in every police station for crimes of domestic violence, to be comprised of two police officers with arrest powers, one of them from the women's police, as well as a psychological worker, a social worker, and a secretary.

Article 16

The Ministry of Social Solidarity and the Ministry of Justice, in conjunction with civil society organisations, shall devise appropriate training programs to train staff and specialists in human rights and rules related to crimes of domestic violence. These programs shall include in particular:

- Rights in Egyptian law and international conventions.

- The nature of domestic violence, manifestations, causes, and its consequences for children.
- The legal rights of victims of domestic violence and means to access justice.
- Services and facilities available to victims.
- The legal duties and responsibilities of the competent committees in the response to complaints, procedures, and the provision of protection and aid to the victims of domestic violence.
- Ways to deal with and treat incidents of domestic violence in a way that promotes the safety of the members of the family.
- The punitive philosophy in the realm of domestic violence, in particular community service orders as an alternate form of punishment and counseling for offenders.

Chapter Four: Penalties

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Article 17

The offender, regardless of his status in the family, shall be punished as follows:

1. In cases in which neither the Penal Code nor Code of Criminal Procedure apply, and after soliciting the opinion of the Family Bureaus, a judgement shall be issued referring the domestic violence offender to a rehabilitation centre, where he will be undergo counselling and training programs for a period of no more than one month and no less than one week.
2. For a repeat offence, the offender shall be given a community service order that comports with his qualifications and specialisation to work in orphanages, homes for the elderly, and facilities for those with special needs. The court shall determine the duration of the service. The judgement shall be binding, and its implementation is subject to the provisions of the Code of Criminal Procedure
3. In the case of a second repeat offence, the offender shall be punished pursuant to the Penal Code, provided the penalty is aggravated if the victim is a minor, disabled, or elderly. If the court fines the offender, the entire value of the fine shall be given to the victim of violence.
4. In all cases defined in the foregoing paragraphs, the judgement must remove the offender from the victim for the duration of the penalty or provide protection for her using one of the means stipulated in the law and its implementing regulations if she requests it.

Article 18

If the victim has not applied for a protection order and the order has not been issued, she may request an urgent order from the court while the case is under consideration.

Article 19

If the victim declines to pursue a civil suit in a crime of domestic violence, the court may suspend the sentence while taking measures to ensure the protection of the victim.

EXAMPLES OF CIVIL SOCIETY ORGANISATIONS AND INITIATIVES WORKING ON COMBATING SEXUAL HARASSMENT AND ASSAULT

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El Nadeem for the Management and Rehabilitation of Victims of Violence and Torture

El Nadeem Centre for the Management and Rehabilitation of victims of violence is an independent Egyptian NGO that was established in August 1993 as a civil not for profit company. Other than helping women victims of torture, El Nadeem is also involved in addressing other forms of violence against women. El Nadeem provides psychological, social and rehabilitative support to women torture victims and victims of domestic violence and rape. El Nadeem has set up a women's program providing listening and counseling to women victims of violence. The program is based at the Centre with 11 field extensions: 7 in Cairo, 2 in Lower Egypt and 2 in Upper Egypt.

Egyptian Centre for Women's Rights (ECWR)

<http://ecwronline.org>

In 2005, the Egyptian Centre for Women's Rights (ECWR) launched the "Safe Streets for Everyone" campaign, aimed at addressing the issue of sexual harassment in society and breaking the silence surrounding the taboo. In 2007, ECWR published a study entitled "Sexual harassment as a social cancer" documenting over 3000 complaints of sexual harassment. In 2008, ECWR published another study entitled "Clouds in Egypt's Sky" which analysed the reasons, motives, practices of harassment and its impact on all aspects of life including education, work, tourism and the economy. ECWR prepared a draft law on sexual harassment that was submitted to the Egyptian former president Mohamed Morsi in August 2012.

Task Force for Combating Sexual Violence

In 2008, a coalition of 23 human rights and civil society organisations formed the Task Force for Combating Sexual Violence, coordinated by the New Woman Foundation. The task force worked on providing legal and psychological support for survivors of sexual violence, changing the passive and negative behaviour towards survivors of sexual violence and specifically women, and pressuring state institutions to reform its attitude in dealing with these types of crimes. In 2010, the task force submitted a draft proposal for amending articles in the Egyptian Penal Code as well as a draft law on criminalising all forms of sexual violence.

Harassmap

<http://harassmap.org>

Harassmap was the first volunteer-based initiative to work on sexual harassment in Egypt. It was established in 2010 with the aim of ending the social acceptability of sexual harassment in the country. Harassmap's community volunteers are now present nationwide. They hold awareness campaigns in the streets, where they encourage people to speak out about sexual harassment. They have also held a campaign directed at shop owners linking sexual harassment with decrease in business; as a result many shops around the country have put up stickers identifying their shop as a "safe spot" from sexual harassment. Harassmap has also developed a system where citizens can send a notification about an incident of sexual harassment via SMS, the documentation is then presented on an online interactive map on their website. Recently, Harassmap has launched a nationwide media campaign aimed at breaking the stereotypes about sexual harassment and ending the social acceptability of the practice.

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Basma (Imprint Movement)

<https://www.facebook.com/Imprint.Movement>

Basma is an initiative that organises human chain stands across the country in which protesters hold signs about sexual harassment, aiming to raise awareness about the issue amongst the community. Imprint Movement is an initiative that was founded in 2012. They organise awareness campaigns and security intervention during the public holidays. Imprint Movement also conducted security patrols during the *Eid* holidays in the metro and downtown Cairo, where they intervened in cases of sexual harassment, rescuing the women, and delivering the harasser to the police. They have an agreement with several human rights organisations who provide legal support if the woman has filed a case at the police station. Imprint Movement has also

organised a campaign at the 10th of Ramadan bus stop in which they gave micro-buses code numbers and urged women to report harassment in the micro-buses to a hot line. They plan to expand the hot line to include also harassment in the metro.

Operation Anti Sexual Harassment (OP Anti-SH)

<https://www.facebook.com/opantish>

In November 2012, a group of 300-400 volunteers started Operation Anti Sexual Harassment (OP Anti-SH) in response to repeated sexual assaults attacks in Tahrir during mass protests. The group is divided into sub-groups of men and women: the field group raises awareness in Tahrir about sexual assault and gives people the hot-line number, the safety group is responsible for giving the survivor clothes, and providing her with medial and psychological treatment, and the intervention group is responsible for intervening in assaults to get the woman out safely. The strategy of the intervention group is to rescue the woman, not to catch the harassers.

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Tahrir Bodyguard

<https://www.facebook.com/Tahrir.Bodyguards>

Tahrir Bodyguard was also started in November 2012 by a group of volunteers who intervened in sexual assaults in Tahrir. The volunteers, who are all men, are identified by yellow helmets, both for protection and identification as it is difficult to identify who is helping and who is harassing during the assaults. The volunteers are armed with sticks and pepper spray and their sole aim is to rescue the women, rather than catch or beat up the harassers. Tahrir Bodyguard also organises free self-defence classes for women.

“Shoft Taharosh (I Saw Harassment)

<https://www.facebook.com/Shoft.Ta7rosh>

Shoft Taharosh (I Saw Harassment) is another group that was founded in 2012 working on raising awareness about sexual harassment and conducted security patrols during public holidays including *Eid el Adha* 2012 and Easter 2013. The mixed group works on documenting cases of sexual harassment, intervening in cases of assault to rescue the women and provides medical, psychological and legal support. This group is part of **Fouada Watch** (*<https://www.facebook.com/FouadaWatch>*) which is an initiative working on monitoring and reporting the positions of state institutions towards women’s rights. They have launched awareness campaigns to put women’s rights on the national agenda, and have published reports on violations of women’s rights by state institutions.

“Against Sexual Harassment”

<https://www.facebook.com/Ded.Ta7rosh>

“Against Sexual Harassment” is an initiative founded in 2012 with around 60 volunteers. They provided security patrols during *Eid Al Fitr* in down-town Cairo. They also give workshops and conduct outreach campaigns tackling the issue of sexual harassment from a cultural and social perspective. This initiative does not condemn harassers, but rather views them as people requiring treatment, rather than punishment.

“Expose Harassers”

<https://www.facebook.com/efda7.mota7resh>

“Expose Harassers” was founded in 2013. The initiative is based on a group of volunteers managing a facebook page where women post photographs of their harassers and their stories. The page collects testimonies of stories of sexual harassment aiming at breaking the taboo, encouraging women to speak out, and maintaining a database of a list of harassers with their photos for the purpose of public shaming and possibly litigation.

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Banat Masr Khat Ahmar (Egypt’s girls are a red line)

<https://www.facebook.com/banatmasrkhata7mar>

The movement was established in June 2012 and works on combating sexual harassment, providing support for women to report sexual violence, lobbying for the adoption of a law that can effectively combat sexual violence, and providing psychological and legal support to survivors.

Initiative for Female Egyptian Lawyers

The volunteer-based initiative, established in 2004, includes a group of Egyptian female lawyers. It was officially registered in 2014. The initiative is a member of several groups including “popular mobilization of Egyptian women”, “women with the revolution”, and the “Task Force for combating violence against women”. The initiative aims to provide justice for women, and has worked on several cases of violence against women through its legal support unit. The initiative aims to become a hub of legal expertise on women’s issues in Egypt.

ABOUT THE AUTHORS

Nazra for Feminist Studies

<http://nazra.org/>

Nazra for Feminist Studies is a group that aims to build an Egyptian feminist movement, believing that feminism and gender are political and social issues

affecting freedom and development in all societies. Nazra aims to mainstream these values in both public and private spheres. Nazra works on documentation and providing legal support for victims of sexual assault. They have a program for supporting women human rights defenders through legal and psychological interventions. They also work on production of knowledge based on research, documentation, monitoring and analysis of methodologies, producing and developing Arabic terminologies, to form a glossary of the issues worked on, supporting women in the political arena, strategic litigation for gender legal cases locally, regionally, and internationally, and advocacy to integrate gender issues in the political, legal, social and cultural context.

New Woman Foundation

<http://nwrcegypt.org/en/>

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New Woman Foundation is an Egyptian feminist non-governmental organisation that was established in 1984. NWF believes that the struggle for the liberation of women is part of a broader struggle for democracy and social justice, against all forms of discrimination on the basis of gender or social affiliation or ethnicity, religion or any other form of discrimination. NWF works on eliminating all forms of discrimination against women in the economic, social, cultural and political spheres.

Uprising of Women in the Arab World

<http://uprisingofwomenintheArabworld.org/>

<https://www.facebook.com/intifadat.almar2a>

The Uprising of Women in the Arab World is a volunteer based initiative working towards free, independent and fearless women in the Arab world. Through its social media campaigns, networking and on-the-ground activities, the Uprising of Women aims at putting women's rights on the agenda of the new political realities in the Arab World.

The Uprising of Women is for all the women of the region from all religions and ethnicities, and it provides a free secular space for constructive dialogue and fearless listening about women's rights in the Arab world.

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FIDH represents 178 human rights organisations on 5 continents

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