



» EGYPT

Situation report on Violence against Women

1. Legislative Framework

The new Egyptian constitution¹ adopted in 2014 makes reference to non-discrimination and equal opportunities (article 9, 11 and 53). Article 11 is the only article that mentions violence against women, stating that: "...The State shall protect women against all forms of violence and ensure enabling women to strike a balance between family duties and work requirements..." Article 11 states the right of women to political representation as well as equality between men and women in civil, political, economic, social and cultural matters. Article 53 prohibits discrimination on the basis of gender, and makes the state responsible for taking all necessary measures to eliminate all forms of discrimination.

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

Articles 267, 268, 269 and 289 of the penal code relating to crimes of rape, sexual assault and harassment fail to address the wave of sexual assault and rape in Egypt following the 2011 revolution. For instance, article 267 of the penal code defines rape as penile penetration of the vagina and does not include rape by fingers, tools or sharp objects, oral or anal rape. The two last forms of rape are defined in Article 268 as «indecent violation». While the penal code re-defined and addressed sexual harassment in the new amendment to Article 306 introduced in 2014, the amendment is insufficient and limited in nature as it only considers sexual harassment a crime if the intent of the perpetrator is to obtain sexual benefits. Several human rights organizations convened in 2010 and began constructively working on a draft law with amendments for crimes of sexual violence in the penal code. This draft law was presented to successive governments, including in 2010 and August 2013, but was shelved both times. Furthermore, women trafficking is criminalized in article 64 of the penal code for 2010 yet not sufficiently defined in the law.

Domestic violence against women is largely tolerated, and no efforts have been made by the government to combat it. On the contrary, several articles of the penal code can be used to downplay the gravity or even justify this kind of violence. For instance, article 17 can be used to lower the sentence as an act of mercy often used in cases of rape and honor crimes. Article 60 allows the perpetrator to be pardoned if he acted in "good faith". This article is mostly used to

¹ The Egyptian Constitution: <http://www.sis.gov.eg/Newvr/Dusor-en001.pdf>



justify domestic violence as “the husband’s right to discipline his wife” and to justify so-called “honor crimes”. Moreover, marital rape is not recognized as such in the penal code.

Although female genital mutilation (FGM) was criminalized in 2008 by virtue of article 242 bis of the penal code, it can be circumvented by making reference to article 61 which allows for harmful actions in case of necessity to protect oneself or others. Medical necessity is therefore used as a reason for performing FGM. Thus, this practice has become medicalized instead of being banned or eliminated. In 2014, the case of a young girl who died as a result of the intervention has been taken to court, and after an acquittal in first instance, an appeal court sentenced the doctor to two years in prison for manslaughter and three months for performing the FGM procedure, while the girl’s father was given a three-month suspended sentence².

In 2016 after a 17-year-old girl died, the law criminalizing FGM was amended to consider this crime a felony instead of a misdemeanor, with a maximum punishment of 7 years in prison.

2. Political Framework

A national strategy to combat violence against women (VaW) was launched in June 2015, and is set to be implemented over a five year period from 2015-2020. It was drafted by the National Council for Women (NCW) in cooperation with several ministries, other state and religious institutions, as well as a few NGOs. The strategy includes three areas of intervention: prevention, protection, and prosecution and litigation. Following the launch, the Ministry of Interior announced an increase in the number of patrols for quick intervention and response to emergency calls regarding VaW, the appointment of more female physicians, the establishment of new sections within police stations to receive victims of violence and assault and the addition of a curriculum about human rights and VaW in the Police Academy. A main focus of the strategy is the implementation of tribunals that will deal specifically with cases of violence against women, although up to date no action has been taken in this regard.

Despite the efforts made, the strategy falls short of addressing the legislative changes that need to be made to combat VaW, such as broadening the definition of rape in the penal code and banning articles 17 and 60 from being used in cases of VaW. The strategy also disregards serious issues such as VaW committed by state actors as well as collective sexual violence. Furthermore, the process of drafting the strategy was not transparent and did not sufficiently consult with and take into consideration the recommendations of civil society and women’s rights organizations who had been calling for such a strategy.

Their recommendations include the need for the strategy to be crosscutting and to include the cooperation and commitment of the Ministry of Interior, Ministry of Justice, Ministry of Health and Ministry of Education. Women’s rights organisations are also pushing for the development of an action plan for dealing with cases of violence against women for police, judicial training personnel, health and social workers. Coordination between these different actors is currently lacking. In addition, a study must be conducted that will enable a successful gender budgeting process to ensure the provision of the needed medical and counseling services as well as shelters for survivors of violence. It is currently not known which amount or percentage of the national budget – if any – is dedicated to combating violence.

No relevant statistical data on issues related to VaW is regularly gathered by the Egyptian authorities. The last study on the phenomenon of VaW in Egypt³ was conducted by the National Council for Women in 2009. A report from UN Women from 2013⁴, states that 99% of all women in Egypt have faced sexual harassment and that 90-95% have undergone FGM.

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

² Despite the verdict, the doctor in question has not been arrested yet and his clinic, which was ordered to close for a year, is still operating.

³ http://www.cepal.org/mujer/noticias/paginas/7/42837/internal_link_EGYPT_VIOLENCE.pdf

⁴ http://www.dgvn.de/fileadmin/user_upload/DOKUMENTE/English_Documents/Sexual-Harassment-Study-Egypt-Final-EN.pdf



Prevention of violence and the training of professionals working with victims

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

There are no official governmental campaigns to combat violence against women. However, many civil society campaigns are organized, aimed at stopping various types of violence against women. Recently, special efforts have been made to stop abuse and gang rape of women during peaceful demonstrations. These campaigns often target survivors and the general public.

3. Protection framework and access to justice

Protection systems and services

There are nine shelters for battered women affiliated to, and under the supervision of the Ministry of Social Solidarity and run by the National Council for Women. However, their efforts are insufficient and do not take into account the phenomenon and culture of discrimination and violence against women. In addition, employees of these shelters are not well trained in matters related to gender and violence against women. The Egyptian government supervises the shelters but with limited resources and commitment. No accurate information on the sources and amount of funding from the government is available. Most functioning shelters are run by NGOs and CSOs, mostly funded through bilateral cooperation. However, it is very difficult for NGOs to establish a shelter, given the complex security situation of the shelters. Some women's organizations provide services and outreach programs as well as legal and psychological support for abused women, but do not meet the need, as the country lacks institutions to build an effective system.

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

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Equal access to the justice and police system

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

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

In cases where a victim withdraws her complaint, the judge can theoretically continue a hearing. However, more often than not the court shelves or continuously postpones the case, labelled "administratively reserved". According to law, a female defendant that does not have a lawyer should be appointed one by the prosecution. This does happen, although not effectively. A number of NGOs therefore provide free legal assistance to women.

Women victims of violence are generally treated equally to other victims of crime in police stations, however, they are stigmatized, particularly victims of rape. Women cannot witness without being confronted with their aggressor, as they will be asked to identify him.

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

Violence against women is a priority for the EU, as demonstrated by the fact that there are specific EU human rights guidelines on violence against women⁵. Therefore, the EU-Egypt Action Plan of 2007 (still in force), which was negotiated between the EU and the Egyptian government, includes several commitments relating to VAW, including the commitment to

eradicate FGM through legislation and public awareness raising, to fight trafficking of women and to ensure women's access to health. It also mentions that the EU's support for Egypt's efforts to promote gender equality and combat gender-based violence. It further emphasizes the importance of strengthening the support for the National Council for Women, including its periodic review of relevant legislations and recommendations for new legislation. VAW is also a thematic priority in the EU country strategy for human rights in Egypt. On this basis, the EU funds civil society working on these issues. However, the weakness of these EU-Egypt instruments stems from the lack of clear objectives and indicators to assess Egypt's progress.

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



5. Recommendations to the Egyptian government:

- Intensify efforts to promote gender equality and combat violence against women in the public and private spheres;
- Reform the penal code to punish all forms of violence against women and ensure its implementation to ensure women's access to justice;
- Revise the national strategy on combatting violence against women from June 2015 to include the legislative changes needed to combat VaW;
- Investigate sexual violence committed against women since November 2012 and prosecute those responsible; especially, during demonstrations and protests since November 2012 as only once perpetrators were held accountable for such crimes despite the consistency and repetitiveness of these crimes;
- Enact legislation to mandate the regular collection of statistical data and research to ensure an adequate knowledge base for effective implementation and monitoring;
- Act in accordance with the standards of the UN Declaration on Human Rights Defenders and introduce national legislation to protect them from state and non-state actors, to recognize and enable their work;
- Create a women's human rights defender focal point in the relevant ministries, the National Council for Women and the National Council for Human Rights that would address the concerns and violations committed against women human rights defenders and facilitate their work;
- Ensure full protection for survivors of all forms of violence against women through shelters and other protection mechanisms, such as hotlines and protection of women in situations of immediate danger;
- Provide independent oversight for protection mechanisms as well as rehabilitation and empowerment programs to protect survivors of VAW.

Recommendations to the EU:

- Ensure the implementation of its Egypt's Action Plan, particularly with regard to supporting Egypt's efforts to promote gender equality and reinforce the fight against discrimination and gender-based violence;
- Ensure the implementation of the EU guidelines on Violence against women and girls in its relation with Egypt;
- Support measures that comprehensively combat VAW in Egypt, including legislative changes and the work of the Egyptian National Council for Women;
- Continue its support to civil society in the fight against VAW, while showing understanding for the challenges on the ground and acknowledging the importance of local initiatives to combat VAW;
- Ensure the development of a comprehensive gender profile on Egypt, including on the issue of Violence against Women.

