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### Commission on the Status of Women

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**Follow-up to the Fourth World Conference on Women and  
to the special session of the General Assembly entitled  
“Women 2000: gender equality, development and peace for  
the twenty-first century”**

### **Statement submitted by Center for Egyptian Women’s Legal Assistance Foundation and Nazra for Feminist Studies, non-governmental organizations in consultative status with the Economic and Social Council\***

The Secretary-General has received the following statement, which is being circulated in accordance with paragraphs 36 and 37 of Economic and Social Council resolution 1996/31.

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\* The present statement is issued without formal editing.



## **Statement**

### **Violence against women in the Egyptian public and private spheres**

Despite the rampant spread of crimes of sexual violence in the Egyptian public space against women, and its escalation after the 25 January 2011 revolution, where more than 500 cases of mob-sexual assaults and gang rapes have been documented during the period June 2012 to June 2014, the Egyptian government failed to enact or implement the strategic objectives of The United Nations' Fourth World Conference on Women, namely the strategic objectives listed in the Beijing Declaration of September 1995.

The declaration clearly emphasized the importance of analysing and putting in effect legislation that combats violence against women. However, articles relating to crimes of rape, sexual assault and harassment in the Penal Code (Articles 267, 268, 269 and 289) are currently deficient in nature and do not address the epidemic of sexual assault as well as rape. Moreover, it fails to address the rights of the survivors of the aforementioned crimes and their protection after reporting a crime, and how the law should be implemented to their benefit to ensure that the crime does not reoccur. For instance, Article 267 of the Penal Code currently defines rape as penile penetration of the vagina and it does not include rape by fingers, tools or sharp objects, oral or anal rape, and the latter forms of rape are defined in Article 268 as "indecent violation". While Article 267 mandates a death sentence or imprisonment for life (25 years maximum under Egyptian law) as punishment, Article 268 only mandates a rigorous imprisonment sentence, which can vary from seven to 15 years (minimum to maximum). While the Penal Code recently defined and addressed sexual harassment in the new amendment to Article 306, the amendment is insufficient in its scope, where it considers sexual harassment a crime if the intent of the perpetrator is proven to be related to obtaining sexual benefits. It should be noted that with specific regard to the role of non-governmental organizations, a task force of several human rights organizations convened in 2010 and began constructively working on a draft law with amendments to crimes of sexual violence in the Penal Code. This draft law was presented to successive governments including in 2010 and August 2013, but it was shelved both times.

The concerned declaration also emphasized the necessity of promoting an active and visible policy of mainstreaming a gender perspective in programs related to violence against women, with the enactment of training and different state bodies to combat the issue at stake in a holistic manner. Even though a national strategy to combat violence against women was announced recently by the National Council for Women, the process of drafting the strategy was not transparent and was not carried out in coordination with civil society and feminist organizations who have been calling for such a strategy. This national strategy has to be crosscutting and must include the commitment of several ministries including the Ministry of Interior, Ministry of Justice, Ministry of Health and Ministry of Education, in addition to conducting a study that would enable a successful gender budgeting process to ensure the provision of tools necessary to furnish survivors with the medical treatment needed, in addition to allocating shelters that furnish necessary medical and counselling services to survivors of these crimes. Another facet that conveys the lack of constructive state mechanisms is the media's continuance to cover news of crimes of sexual violence as incidents where their sexual aspect is fetishized, and reinforces justifications used by society, such as the nature of survivors' clothes

during the crime, or activity undertaken. This approach has been employed by the media in crimes committed by both state and non-state actors.

As for accountability, this was conducted in the recent case of the mob-sexual assaults and gang rapes that took place in Tahrir Square and its vicinity on 8 June 2014 during the inauguration of the new Egyptian President, where seven perpetrators were sentenced to life imprisonment and 20 years of jail. However, these sentences were a result of a set of accumulated charges that are not directly related to sexual offenses and crimes. And in the one instance where these crimes are linked to sexual charges, they fell under Article 268 which labels them as an “indecent violation”. Even though this is a positive step, it demonstrates that current legislation relating to crimes of sexual violence in the Penal Code are inadequate in addressing crimes of sexual violence as the definition is not comprehensive or broad. Moreover, with the exception of this specific case, no one has been held accountable for crimes committed since June 2012.

On the domestic sphere level, the Egyptian government had promised to modify the Egyptian Personal Status law since 2005 and they have committed themselves to change after accepting several recommendations during 2010 Universal Periodic Review, yet no changes have been implemented since then.

### **Equality and access to justice**

While Egyptian men have the right to verbally divorce their wives without stating any reasons, women have to undergo a very long judicial process to be granted divorce after providing evidence and reasons about why she wants the divorce. Although *Khul'* (a woman's right to divorce her husband without providing reasons and giving up her dowry according to Islamic Sharia) is considered a victory, women have to give up all of their financial rights which is against Shariah (Article 20 of Code 1 of 2000). Polygamy is considered a reason for a divorce; however, there are not any laws that regulate it.

As for divorce for Christian citizens, Code 1938 was taken into consideration which enlisted 9 reasons where Christian men and women can refer to when filing for divorce through court. However, the church refused to ratify the divorce verdict. Moreover, code 1938 was modified in 2008 restricting divorce to three reasons only; change of religion/sect, adultery, and death.

As for marriage, informal marriage is not forbidden; however, it does not guarantee any rights for the wife as the husband does not have to commit to provide financial support. In addition, if the marriage contract was destroyed by the husband, women can be accused of sexual relationships outside marriage. Husbands also refuse to admit paternity of children resulting from these marriages; women have to go through judicial steps and degrees to obtain paternity proof.

Custody and visitation are regulated by Article 20 of Code 25 of 1929 (amended version in 2005), where the mother is granted the custody of her children until they reach the age of 15.

### **Measures to eliminate violence against women:**

Domestic violence is justified by law. Article 60 of the Egyptian penal code states that the provisions of the penal code should not be applied if the deed is committed in good faith, pursuant to a right determined by the virtue of Shariah.

This article is mostly used to justify domestic violence as “the husband’s right to discipline his wife” and to justify murder crimes in the name of honour.

### **Equal access to education and eliminating trafficking**

From 2010 till 2012, 76 per cent of children who quit school were girls, according to United Nation Children’s Fund Egypt. After the 25th of January revolution, many girls were banned from schools due to the loose security and unstable political situation. This situation led their families to marry them off at a very young age.

### **Health**

The law issued banning Female Genital Mutilation in 2008 has a loophole. It allows the process to be done if it is proven to be medically necessary. Given such a fact, Female Genital Mutilation has become medicalized instead of being totally banned or eliminated. Because of this, very few cases have been taken to court and fewer prosecuted.

### **Application of the Convention to Eliminate Discrimination Against Women and unequal application of the law**

Although Egypt has lifted its reservation on article 9 of the Convention to Eliminate Discrimination Against Women concerning mothers passing their nationality to their children, the current law that regulates this issue allows fathers to pass their Egyptian nationality automatically, while mothers have to file a court case that may take a long time to exercise the same right as men; in some cases, passing a nationality via mothers can be refused by a court order.

### **Signing organizations:**

Center for Egyptian Women’s Legal Assistance

Nazra for Feminist Studies

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