




Violence against Women in Egypt

*Report prepared
for the Committee
on the Elimination
of Discrimination
against Women*





**Committee
on the Elimination
of Discrimination
against Women**

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**Implementation of the Convention
on the Elimination of All Forms
of Discrimination against Women
by Egypt**

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The United Nations Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. In 1981, the Convention entered into force and the Committee on the Elimination of Discrimination against Women was formally established. The major task of the Committee is to review the reports submitted by the States parties in order to oversee the implementation of the Convention.

The issue of gender-based violence is not specifically addressed in the Convention, but it is however essential to its most fundamental provisions. In the general recommendation No. 19 adopted at its eleventh session in 1992, the Committee on the Elimination of Discrimination against Women formally extended the general prohibition on gender-based discrimination to include gender-based violence. The Committee affirmed that violence against women constitutes a violation of their internationally recognised human rights, regardless of whether the perpetrator is a public official or a private person.

One becomes inevitably aware of the fact that the States present reports that show only a one-sided image of reality, which is frequently incomplete. The case being, the effectiveness of this supervision and control depends on the quality of information available to the members of the various committees. Recent information, verified by reliable sources, is consequently indispensable.

In submitting alternative reports to the Committee on the Elimination of Discrimination against Women (CEDAW), OMCT seeks to provide de facto information concerning violence against women, including torture, in a specific country as well as analyse national legislation that fosters violence against women.

OMCT's reports highlight the legal provisions, both penal and civil, of the States concerned, which discriminate against women or which, without being discriminatory as such, become so through their application. Unequal power relations between men and women have led to the domination of and discrimination against women, which in turn leads to violence against women.

Furthermore, the reports draw attention to the lack of ways for the victims of violence to obtain reparation and identify the mechanisms guaranteeing the impunity of torturers.

The reports include recommendations for reform of de facto practices and legislation aimed at reducing the incidence of violence against women in the country in question.

Contents

I. Preliminary Observations	5
II. General Observations concerning the Status of Women in Egypt	8
II.1 Legal Status	8
II.2 Socio-Economic Status.....	12
III. Domestic Violence	17
III.1 Woman Battering.....	17
III.2 Marital Rape.....	19
III.3 Crimes against Women Committed in the Name of Honour.....	19
Cases	19
III.4 Early Marriages.....	22
III.5 Female Genital Mutilation	23
IV. Violence against Women in the Community	24
IV.1 Rape	24
IV.2 Violence against Women Migrant Workers.....	25
IV.3 Trafficking in Women and Exploitation of Prostitution of Women	26
V. Violence against Women Perpetrated by the State	26
V.1 Shortcomings in the Legislation	27
V.2 Cases of Torture of Women	28
VI. Violations of Women’s Reproductive Rights	30
VII. Conclusions and Recommendations	31
Concluding Observations of the Committee on the Elimination of Discrimination Against Women: Egypt.....	35

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I

Preliminary Observations

Egypt ratified the Convention on the Elimination of All Forms of Discrimination against Women on 18 September 1991. When becoming party to this Convention, Egypt made the following reservations:

In respect of article 9

“Reservation to the text of article 9, paragraph 2, concerning the granting to women of equal rights with men with respect to the nationality of their children, without prejudice to the acquisition of the nationality of his father by a child born of a marriage. This is in order to prevent a child from acquiring two nationalities where his parents are of different nationalities, since this may be prejudicial to him in the future. It is clear that the child’s acquisition of his father’s nationality is the procedure most suitable for the child and that this does not infringe upon the principle of equality between men and women, since it is customary for a woman to agree, upon marrying an alien, that her children shall be of the father’s nationality.”

In respect of article 16

“Reservation to the text of article 16 concerning the equality of men and women in all matters relating to marriage and family relations during the marriage and upon its dissolution, without prejudice to the Islamic Sharia’s provisions whereby women are accorded rights equivalent to those of their spouses so as to ensure a just balance between them. This is out of respect for the sacrosanct nature of the firm religious beliefs which govern marital relations in Egypt and which may not be called in question and in view of the fact that one of the most important bases of these relations is an equality of rights and duties so as to ensure compatibility and true equality between the spouses. The provisions of the Sharia lay down that the husband shall pay bridal money to the wife and maintain her fully and shall also make a payment to her upon divorce, whereas the wife retains full rights over her property and is not obliged to spend anything on her own upkeep. The Sharia therefore restricts the wife’s rights to divorce by making it contingent on a judge’s ruling, whereas no such restriction is laid down in the case of the husband.”

In respect of article 29

“The Egyptian delegation also maintains the reservation contained in article 29, paragraph 2, concerning the right of a State signatory to the

Convention to declare that it does not consider itself bound by paragraph 1 of that article concerning the submission to arbitration of any dispute which may arise between States concerning the interpretation or application of the Convention. This is in order to avoid being bound by the system of arbitration in this field.”

In respect of article 2

“The Arab Republic of Egypt is willing to comply with the content of this article, provided that such compliance does not run counter to the Islamic *Sharia*.”

Although the Convention permits the making of reservations, according to article 28 (2) of the Convention which adopts the impermissibility principle contained in the Vienna Convention on the Law of Treaties, those reservations which are incompatible with the object and purpose of the Convention shall not be permitted.

The World Organisation Against Torture (OMCT) is concerned that the reservations made by Egypt challenge the central principles of the Convention, such as articles 2 and 16, and are in conflict with the Convention and with general international law. Neither culture, tradition, customary practices nor incompatible domestic laws and policies can justify violations of the Convention and reservations for these reasons are therefore unacceptable and should be reviewed and modified or withdrawn.

Egypt is also party to other international instruments relating to human rights which implicitly prohibit violence against women, *inter alia*: the International Covenant on Civil and Political Rights of which article 2 prohibits discrimination on the basis of sex, article 3 guarantees “the equal right of men and women to the enjoyment of all rights set forth in the Covenant”, article 6(1) protects the right to life, article 7 prohibits torture and other cruel, inhuman or degrading treatment or punishment, article 9(1) protects the right to liberty and security of persons, and article 24 promises children protection by the state without any discrimination on the basis of *inter alia* sex; the Convention against Torture, which provides protection against violence in a more detailed manner; the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child which constantly uses both feminine and masculine pronouns in its provisions, and which makes it explicit that the rights apply equally to female and male children.

Despite these international commitments to protect women from violence, during recent years, OMCT has received many disturbing reports documenting violations of the human rights of women in Egypt. OMCT has reported on these violations in the form of alternative reports to the Committee against Torture in 1999 and to the Committee on Economic Social and Cultural Rights in 2000.

With regard to the situation of female detainees, the Committee against Torture expressed its concern in its conclusions and recommendations and stated that “The allegation by the World Organisation against Torture of the treatment of female detainees, by both the police and the State Security Intelligence, which sometimes involves sexual abuse or threat of such abuse in order to obtain information relating to husbands or other family members.”¹

The Committee on Economic, Social and Cultural Rights also expressed its concerns in its Concluding observations “about the considerable divergence in Egypt between the constitutional provisions on the one hand and the national legislation and practice on the other, with respect to the societal status of women in general, women’s participation in political life, the provisions in criminal law with respect to adultery, and female genital mutilation (FGM).” Moreover, the Committee stated that “Although the Committee welcomes the efforts by the State party in promoting equality of men and women through a new divorce law, it notes with concern that the new law contains provisions that may disadvantage women. In addition, the Committee notes with concern that the Nationality Law does not grant equal citizenship status to children of Egyptian women married to non-nationals.” The Committee also noted with concern “[t]hat despite the achievements of Egypt in the field of education, inequality of access to education between boys and girls, the high drop-out rates for boys and high illiteracy rates among adults, particularly women, persist.”²

OMCT welcomes the third periodic report (UN Doc. CEDAW/C/EGY/3) and the combined fourth and fifth periodic report reports (UN. Doc. CEDAW/C/EGY/4-5) of the government of Egypt to the Committee on the Elimination of Discrimination Against Women which deal, among other forms of discrimination against women, with some of the forms of violence to which women are subjected in Egypt.

1 – UN. Doc. A/54/44, paras.197-216.

2 – UN. Doc. E/C.12/1/Add. 44.

OMCT would like to recall that in its General Recommendation No. 19, (Eleventh session, 1992) the Committee on the Elimination of Discrimination against Women (hereafter referred to as CEDAW) recommended that States parties should take all appropriate measures to overcome all forms of gender-based violence whether by public or private actors. Moreover, the Committee stated that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, while promoting respect for their dignity and integrity. The Committee requested States parties to report on the nature and extent of violence and on the measures they have undertaken to overcome violence.³

After general observations on the socio-economic and legal status of women in Egypt, this alternative report will look in more detail at violence against women in the domestic sphere and at the community level from both a *de jure* and from a *de facto* point of view. Moreover, it will look at violence perpetrated directly by the State as the government report remains entirely silent on this matter.

General Observations concerning the Status of Women in Egypt

II.1 Legal Status of Women

The Constitution of Egypt provides for equality between men and women. Under article 8 of the Egyptian Constitution, the State guarantees equality of opportunity for all citizens. Article 40 of the Constitution further stipulates that all citizens are equal before the law and in regard to their public rights and obligations, without discrimination among them on the grounds of, *inter alia*, sex.

3 – UN Doc. HRI/GEN/IRev. 2.

On the other hand, the Constitution also contains ambiguous provisions with regard to the rights of women. Article 9 states: “The family, which is rooted in religion, morality, and patriotism, is the cornerstone of society. The State shall strive to preserve the authentic character of the Egyptian family, with the values and traditions that it embodies, while affirming and developing this character in relations within Egyptian society.” Article 11 states: “The State undertakes to reconcile the duties of women towards their family with their work in society and guarantees their equality with men in political, social, cultural and economic spheres of life, with due regard for the provisions of the Islamic Shari’a.”

These articles show that the state is keen to preserve the character of the Egyptian family with all the values and traditions represented by it. OMCT fears that these articles undermine the role of women in Egyptian society as a whole. The emphasis on the high status of the family and its protection preserves the power structures in the family. In Egypt, as will be discussed in more detail below, it is clearly apparent that it is men who have the power in the family (as well as in public life), and women are often regarded as their property. Protective moral standards are imposed upon women, which keep them in an inferior position and preserve male supremacy, preventing women from equally enjoying their fundamental human rights.

OMCT also notes that discrimination against women remains evident in a number of laws currently in force, including personal laws, laws on civil competence, and the penal code. OMCT would like to mention the following laws as it believes that these discriminatory laws render women vulnerable to violence.

Polygamy is still a legal right of men, although the Constitutional emphasis is on the State’s obligation to preserve the authentic character of the Egyptian family, which is the cornerstone of society, to protect mothers and children and to cater for the welfare of the rising generation and youth (articles 10 and 11) as well as to the Constitution’s guarantee of equal rights. As CEDAW states in its general Recommendation 21, “polygamous marriage contravenes women’s right to equality with men, and can have such serious emotional and financial consequences for her and her dependants that it ought to be discouraged and prohibited.”⁴

A new personal status law, signed by President Mubarak on 29 January 2000, improves equality between men and women by making it easier for

4 – UN. Doc. HRI/GEN71/Rev. 3.

women to file for divorce. The old law allowed a woman to file for divorce only under specific circumstances in which she could prove ill-treatment, whereas a man could divorce his wife simply by saying “I divorce you” three times. The new personal statute allows women to seek a divorce on the grounds of “incompatibility” in exchange for renouncing their right to financial claims. They also have to return their dowry.

Although the new bill will mean an important step forward for women in their freedom to enter and leave a marriage, OMCT fears, however, that the proposed changes may be insufficient as they will mainly benefit women who can afford to pay back the dowry and forego alimony. The law also still makes it illegal for any institution to separate a wife from her husband without his consent, making the provision of shelters for women problematic.⁵ Moreover, the new law does not improve the conditions of Egyptian Coptic women who must go through the complex procedure of applying for an annulment of the marriage from their church.

With regard to travel documents for women and minors, the government report states on page 54 that “article 7 of Law No. 97 of 1959, which deals with passports, stipulates that Egyptian nationals, irrespective of gender, have the right to apply for a passport.” However, according to article 4 of a ministerial decree n° 3937 of 1996, a woman cannot obtain a passport without the written consent of her husband, who has the right to prevent her from travelling, even if he had given his consent to her obtaining a passport or to making previous trips. This decree is clearly contrary to articles 50 and 52 of the Egyptian Constitution, article 13 of the Universal Declaration of Human Rights, and article 12 of the International Covenant on Civil and Political Rights, all guaranteeing the freedom of movement.

OMCT therefore welcomes the recent judgement of the Supreme Court of Egypt in November 2000. The Supreme Court decided that the Ministry of Home Affairs had no right to refuse a woman a passport just because her husband wanted to prevent his wife from travelling. The Court declared that everyone has the right to obtain travel documents.

However, the interesting part of the ruling is the final paragraph of the decision which states: “Bearing in mind the previous paragraphs, this does not stop the legislature from passing legislation that would regulate the

5 – Alternative NGO Report by Al-Nadim Center for the Rehabilitation of Victims of Violence, the Hisham Mubarak Law Center, and the New Woman Resource Centre, *Implementation of the International Covenant on Economic, Social and Cultural Rights*, April 2000, p. 2.

issuance of passports for women, balancing their right to freedom of movement, including their right to leave the country and return to it, with the provisions of article 11 of the Constitution that reaffirms that “coordination between a woman’s duties towards her family and her work in the society, considering her equal to man in the political, social, cultural and economic spheres without detriment to the rules of Islamic jurisprudence (Sharia)”, and the provisions of article 2 of the constitution which states that “the principal source of legislation is Islamic Jurisprudence (Sharia).”

As mentioned above, Egypt has made a reservation on article 9 paragraph 2 of the Convention on the Elimination of All Forms of Discrimination against Women concerning the granting to women of equal rights with men with respect to the nationality of their children. Nationality Law 26 of 1975 stipulates that an Egyptian woman married to a non-Egyptian man cannot confer her nationality to her offspring, but if the father is unknown, the children are registered as Egyptian citizens. Men do not face the same problems. Non-Egyptian wives can apply for Egyptian nationality two years after marriage, and their children are automatically registered as Egyptian citizens at birth, regardless of their mother’s nationality. The social, political and economic implications of this law go much further than the blatant difference of treatment of men and women. One implication is that the children of Egyptian mothers married to non-Egyptians are deprived of the rights and privileges of Egyptian citizens. They cannot vote or be employed by the government. They are required to obtain residence visas and work permits. They have to register as foreigners in schools and universities and consequently pay higher fees than they would as Egyptians. The economic burden that this law entails is often shouldered by the mother who is forced to resort to extreme measures to bear the costs involved.⁶ OMCT believes that Decree No. 353 of 20 December 1994 promulgated by the Ministry of Education, mentioned in the government report on page 13, does not solve the problem of children born to Egyptian women married to non-Egyptians.

Unequal inheritance rights also leave women dependent on men. Law No. 77 of 1943 stipulates that the wife is entitled to inherit one eighth of an inheritance in the event of there being offspring, and a quarter of the inheritance if there are not.

6 – Nemat Guenena and Nadia Wassef, *Unfulfilled Promises, Women’s Rights in Egypt*, Population Council, 1999, p. p. 38.

Women are also discriminated against in the Penal Code. Under article 237 a husband “who surprises his wife in the act of adultery and kills her in the act of adultery” will only be punished by a prison sentence of three to seven years instead of by hard labour for life or the death sentence. A wife is deemed to have provoked her husband into killing her. Women are not given the same commuted punishment in a similar situation. This difference is justified in Egypt by the widespread attitude that a man’s honour is dependent upon his wife’s virtue.

Moreover, article 274 of the Penal Code gives the husband the right to stop the execution of a sentence against his wife in a case of adultery if he wants to continue living with her, whereas women are not given the same right. Finally, article 277 of the Penal Code states that a husband is only considered to have committed adultery if the act takes place in the marital home; only in this case is he considered guilty and will receive a six-month prison sentence. However, the wife is considered to have committed adultery wherever it occurs, hence she will receive a two-year prison sentence. Moreover, since article 276 of the Penal Code does not clearly define adultery, a wife could be accused of adultery if a love letter is found in her possession.

OMCT notes with grave concern that marital rape is not considered a crime under the law of Egypt. This form of violence will be discussed below in more detail.

Discriminatory laws render women vulnerable to violence as they emphasise their low social and economic status relative to men and their dependence on men for protection and survival. A woman of independent means is more able to walk away from a situation of abuse. The low social and economic status of women is conducive to violence within the family.

II.2 Socio-Economic Status of Women

Since the second half of the 20th century, women in Egypt have enjoyed some legal privileges. The political rights of women have been recognised since the ’fifties; Egyptian labour laws, issued in the early ’sixties, do not discriminate between men and women in wages for the same work, and they also offer mothers a number of pre-natal and post-natal facilities and child care. Moreover, as discussed above, in the year 2000, a new divorce law was adopted improving the position of women and in November of the same year, the Supreme Court of Egypt ruled that the Ministry of Home

Affairs had no right to deny a woman a passport just because her husband wants to prevent her from travelling abroad. However, as also discussed above, neither the new personal law nor the rulings of the Supreme Constitutional Courts are complete victories for women's rights.

As indicated in the combined fourth and fifth government report, several mechanisms at government level have also been set up to promote the full development and advancement of women. Moreover, during the last few decades, numerous non-governmental women's organisations and women's rights activists have developed alternative policies for the promotion and protection of the human rights of women in different fields and for the advancement of their status. They have made of a wide range of approaches to achieve their goals, including the provision of services, advocacy, research, publishing and scholarships.

On the other hand, however, many reports indicate rising conservative trends which oppose women's rights, which call for the return of women to their homes and attempt to undermine what women have achieved in the past decades. These trends are not mentioned in the government report, although they constitute major impediments to women's enjoyment of their human rights including their economic, social and cultural rights. Women suffer from increased discrimination in the media, education, work, politics, and health care.

Moreover, women's rights activists are also targeted by the government for their activities in the field of women's rights. In fact, on the whole, the Egyptian Government has demonstrated a hostile attitude towards human rights and advocacy NGOs. The attempt by the Egyptian authorities to suppress civil society is clearly illustrated by the promulgation of a restrictive law, concerning the status and recognition of civil society associations and institutions; Law 153 of 1999 (Law on Civil Associations and Institutions, also called the NGO Law). This law contradicts article 55 of the Egyptian Constitution affirming the right of citizens to form associations, and gives the government control over the right of NGOs to manage their own affairs, including seeking external funding. In June 2000, the Egyptian Constitutional High Court declared this law unconstitutional and questioned the restrictive system applying to the establishment of NGOs.⁷ Despite the decision of the Constitutional High Court, the situation of human rights defenders continues to deteriorate.

7 – The Observatory for the Protection of Human Rights Defenders, a joint programme of FIDH and OMCT, Urgent Appeal, EGY003/0008/OBS 075.

Egyptian society is one of strict class divisions, which adversely affect women in particular. It is therefore difficult to generalise on the social and cultural background of Egyptian women, unlike the common legal background. Another factor that influences women's social status is the region from which the woman originates. Upper Egypt for example is far more conservative than Cairo and its suburbs. There are also differences between rural and urban women, the latter being less conservative and traditional. There are, nevertheless, cultural generalisations affecting all women, that have far-reaching implications on their status and role in society, and how they are perceived. The belief that men are superior to women is not only based on the interpretation of religion, but also on the traditional view of women as subordinates and as "property". Moreover, the conviction that a woman's place is in the home affects women of all classes.⁸

A related reason for gender-disparity is the existing preference for sons in Egyptian society. The birth of a boy is a source of greater happiness and pride than that of a girl. Families of lower socio-economic status in particular, especially in rural areas, give less attention, education and health care to their daughters than they do to their sons.⁹ There are multiple socio-economic and religious reasons underlying this preference.

Furthermore, preference for sons, together with the protection of a girl's virginity, is instrumental in promoting early marriages, a practice detrimental to the physical and psychological health of young women. This practice, and other forms of violence against women that are detrimental to women's health, will be discussed in Chapter 3 of this report.

The Egyptian saying "The loss of a woman's virginity is a shame which can only be wiped out in blood"¹⁰ is very significant with regard to the obsession with a woman's virginity. The sexual behaviour of a woman is the responsibility of her male relatives. The related crime of honour killing will be addressed in Chapter 3 as will female genital mutilation, which should be understood in a similar context.

8 – Marilyn Tadros, *Rightless Women, Heartless Men*, the Legal Research and Resource Center for Human Rights pages, available at web page: <http://wwomen3rdworld.about.com>.

9 – E. El-Hamasmy, *Early Marriage and Reproduction in Two Egyptian Villages*, 1994, quoted in Nemat Guenena and Nadia Wassef, see footnote 6, p. 38.

10 – Poverty and Development, Calling for Change, Development Strategies to End Violence Against Women, Dutch Ministry of Foreign Affairs.

The image of women in the media is indicative of the values and norms prevailing in contemporary Egypt. It has been reported that women are depicted as mothers, wives and daughters in need of protection. In exchange for such protection, women are required to submit to male authority. At the same time, women professionals are often portrayed in a negative light.¹¹ Women's creativity and interaction within society are hindered due to the stereotyping of male and female roles in the media.

With regard to the educational status of women, OMCT welcomes the fact that under the 1971 Constitution education is a right, guaranteed by the State, and compulsory at the primary level, and that the State has an obligation to work towards extending the compulsory period to other levels (article 18). According to article 20 of the Constitution, education in State educational institutions is free at all levels and article 21 states that the eradication of illiteracy is a national duty. Law No. 139 of 1981 on education makes education compulsory and free for all Egyptian children between six and nine years old.

While OMCT welcomes the fact that illiteracy is decreasing in Egypt and the State's efforts in this field, it is concerned by the remaining gap between men and women. Comparing male and female illiteracy levels of all ages nation-wide, there is a significantly greater proportion of women who are illiterate; according to the World Bank, 60% of females over 15 years of age as opposed to 35% for males in the same age group.¹² Moreover, juvenile illiteracy in Egypt in 1997 for the age group of 15 to 24 year was 25% for males and 41% for females.¹³

OMCT is concerned by the remaining inequalities between the educational status of boys and girls. These inequalities are more pronounced in rural areas, with one-third of ten year old girls not being enrolled in school in rural Upper Egypt.¹⁴ Reports explaining the reason for these gaps state that many parents refrain from sending their daughters to school as they do not believe that the economic returns will be greater than the investment in a girl's education. Another reason cited is the lack of single-sex schools that discourage traditional parents from sending their daughters to school.¹⁵

11 – Nemat Guenena and Nadia Wassef, see footnote 6, 1999, p. 33.

12 – World Bank, African Development Indicators, 2000. Note that according to the government report, 51% of the women were illiterate in 1996.

13 – World Bank, World Development Indicators 1999.

14 – El Tawila et.al, *Transitions to Adulthood: A national Survey of Adolescents in Egypt*, 1999, quoted in: Nemat Guenena and Nadia Wassef, see footnote 6, p. 32.

15 – Nemat Guenena and Nadia Wassef, see note 6, p. 32.

Women's limited access to education has an important effect on their employment possibilities. Although the government report states that "women have made significant gains in Egypt as a result of efforts made by the State", OMCT remains concerned about the low female participation in economic activities. With regard to the unemployment rates in 1995, in the rural areas, 7.54% of men and 24.05% of women were unemployed and in the urban areas, 7.5% of men and 27.62% of women were unemployed.¹⁶ Moreover, women's average wages are allegedly approximately one-third lower than those of men.¹⁷ OMCT also notes that women hardly ever reach positions of leadership, and when they do, the occurrence is viewed as an anomaly.¹⁸ Furthermore, women's representation in labour unions remains insignificant: only 621 women belong to labour unions as opposed to 17,441 men.¹⁹

In fact, women's business initiatives and acumen are often constrained by their confinement to the domestic sphere, restrictions on their mobility and their lack of exposure to information about loans and training opportunities. Consequently, small, traditional, home-based enterprises are often the only alternatives available to women. Women who have ventured into the public sphere have often been blamed for much of the violence inflicted upon them, both in the workplace and on the street, whereas domesticity is often seen as the way for women to preserve their dignity.

Education, employment, and socio-economic status are all determinants of health. Given the general disparity between men and women, it is not surprising to find a gender-disparity in health status too. Due to women's lower economic and social status in society, they have limited access to crucial information on health care and hygiene.

16 – Centre for the Study of Developing Countries, Cairo University, *Comprehensive Development Report in Egypt*, 1998, quoted in: Alternative NGO Report by Al-Nadim Centre for the Rehabilitation of Victims of Violence, the Hisham Mubarak Law Centre, and the New Woman Resource Centre, see footnote 5, p. 11.

17 – Nemat Guenena and Nadia Wassef, see note 6, p. 35.

18 – *Ibid.*

19 – *Ibid.*



Domestic Violence

III.1 Woman Battering

The dominance of men over women is accepted to varying degrees among Egyptians of both genders. For example, the 1995 Egyptian Demographic and Health Survey found that a significant number of women, especially among lower and middle income women and those residing in rural areas, believed that wife beating was justified under certain circumstances.²⁰

Another study - carried out between January and March 1997 on a sample of 100 women aged between 14 and 65 years old (married or having been married) from Manshier Nasser, an informal settlement located ten minutes from the city of Cairo - reveals that 30% of the women questioned admitted to being subjected to domestic violence on a daily basis, 34% on a weekly basis, 15% on a monthly basis and 21% occasionally.²¹ For 75% of these women, the main reason for this domestic violence was found to be sexual. Women are beaten, raped or abused for having refused to have sex with their husbands. Other reasons cited were spending (65%), visiting (32%), housework (25%), religion (8%), jealousy (6%) and disobedience (5%).²² Sixteen percent of the women suffered injuries necessitating hospitalisation, such as broken arms, broken ribs, internal bleeding and wounds in the head or the arms requiring stitches, while 9% of them attempted to commit suicide.²³ Following this violence, most of them (53%) suffered in silence; 13% went to the police, although all of them subsequently withdrew the charges, the objective being only “to teach the husband a lesson”, not really wanting to cause him any harm.²⁴ Only 6% of these women demanded a divorce. Of the remainder, 26% called their neighbours; 25% tried to leave their homes at least once; 23% got help from family members (either their own or their spouse’s), while 15% responded to the violence. The fact that 87% of these women did not mention the violence to the police is due to embarrassment (65%), for the children’s sake (32%), fears for their husband (19%), fear of their husband

20 – F. El-Zanaty et.al, Egypt Demographic and Health Survey, 1996, p. 206, quoted in Nemat Guenena and Nadia Wassef, see note 6, p. 38.

21 – Marilyn Tadros, *Rightless Women, Heartless Men. Egyptian Women and Domestic Violence*, The Legal Research and Resource Center for Human Rights, Cairo, 1998, p. 46.

22 – *Ibid.*, pp. 51-62.

23 – *Ibid.*, pp. 62-71.

24 – *Ibid.*

(13%), and fear of their own families (7%).²⁵ Four percent felt that it was a waste of time, while 11% cited other reasons.

The researcher specified that although this study is not representative of Egyptian society as a whole, she feels that “the instances of violence even among different social classes within Egyptian society is widespread.”²⁶

OMCT welcomes the promulgation of Law No. 6 of 1998, mentioned in the fifth and fourth government report on page 15, which criminalises the phenomenon of intimidation and the threat of the use of force or violence against a wife, offspring or parents. However, it believes that this measure does not provide women with sufficient protection from domestic violence as wife battering in Egypt is only dealt with as a crime if it exceeds the accepted limits of disciplining or if it results in certain injuries.²⁷ Social and other interpretations of religious values reinforce the wife’s duty to obey and serve her husband, a role reinforced by the media. Moreover, the custom of a man paying a dowry for his future wife also perpetuates the idea that a wife is her husband’s property.

Although OMCT welcomes the amended personal law which allows women the right to unilateral divorce, it is concerned that the rights granted to women by law are still too limited to enable them to leave their husbands. First of all, a woman can only get a divorce if she can afford to pay back her dowry. As women are still often economically dependent on their husbands, returning the dowry will in many cases be impossible. Neither does the new law improve the conditions of Egyptian Coptic women who must go through the complex procedure of applying for an annulment of a marriage from their church. Moreover, as mentioned above, the law still makes it illegal for any institution to separate a wife from her husband without his consent. Consequently, women cannot seek refuge in a shelter from a violent husband.

According to information received, since the law has been implemented in February 2000, a few dozen cases have occurred. According to the newspapers, two or three divorces have been granted on these grounds. According to lawyers this has not yet been the case.

25 – *Ibid.*

26 – *Ibid.*, p. 82.

27 – Information received from the Egyptian Organisation for Human Rights (EOHR), member of the OMCT SOS Torture network, in answer to an OMCT questionnaire on violence against women.

III.2 Marital Rape

In Egypt, a husband who forces his wife to have sexual intercourse is not considered by the law to have committed a criminal offence, “because the woman is legally obliged due to the marriage contract to obey her husband and to follow him to his bed each time he asks her, and she can only refuse for a legally valid reason.”²⁸

A study conducted by the New Women Research Centre and El-Nadim Centre has found that 93% of the women in the sample considered intercourse under such conditions as rape. However, 46% of the men in the sample said that they were entitled to force their wives to have intercourse.²⁹

III.3 Crimes against Women Committed in the Name of Honour

As already discussed above, there is a notable difference in the penalty for the murder of one’s spouse upon discovery of adultery. Whereas men are given a light prison sentence of not more than three years for murdering an adulterous wife, women are often sentenced to hard labour for life for murdering an unfaithful husband. This difference is justified by the widespread attitude that a man’s honour is dependent upon his wife’s virtue. Consequently, his violent reaction to his wife’s adultery becomes excusable, especially if committed in the heat of the moment.

Moreover, although under the penal code, only the husband is “afforded” a lesser sentence for “provocation”, the woman’s family is often given a provocation defence by lenient court officials.³⁰ Judges allegedly impose light sentences in such cases as an appreciation of the family’s suffering.³¹

Cases

- Fathiyah was murdered by her brother, Khayri Muhammad, for not consenting to an abortion in order to “avoid bringing shame on her family and husband” who was working outside the country. In the presence of her four children, he locked Fathiyah in her bathroom,

28 – Sami a. Aldeeb Abu-Sahlieh, *L’Ethique sexuelle en droit musulman et arabe, cas de l’Egypte, passé, présent et avenir*, unpublished text.

29 – El-Nadim Centre and New Women Research Centre, 1994, quoted in Nemat Guenena and Nadia Wassef, see note6, p. 37.

proceeded to pour a can of gasoline under the door and set it alight. He wanted to make sure she would be “completely charred”. Khayri Muhammad was only sentenced to three years hard labour, because the Court established through a pathologist that Fathiyah was in fact pregnant at the time of her death.³²

- Thurayya Abd-al-Hamid, a 37 year-old housewife, drowned in a pool of her own blood after her throat was slit by her brother, a government official. She was stabbed 160 times all over her body. Thurayya was murdered because of a rumour that she was going out with her brother-in-law while her husband was out of the country.³³
- A pregnant woman in the Muharram Bey quarter of Alexandria was electrocuted to death by her mother for not disclosing the identity of the man who had impregnated her. The mother then filed a report stating that her daughter died of natural causes. After signs of torture were discovered, the mother said that this was done to protect the family honour.³⁴
- A 23-year old woman was assaulted and killed with an axe by her brother for her alleged “misconduct”. He had “doubts about her behaviour”.³⁵
- A man slit his daughter’s throat in order to “cleanse” his honour. He carried her dead body through the streets and repeated, “I have been cleansed of my shame”.³⁶

30 – Muhammad Sa’id, Al Wafd, *Crimes of Shame in Defense of Honour*, October 24, 1998, pp. 33-39.

31 – *Ibid.*

32 – *Three Years at Hard Labor for Man Who Murdered His Sister in Al-Gharbiyah*, Al-Ahrar, December 16, 1998. (This material was provided by Mrs. Nevine Ebaid, International Relation Coordinator for Center for Egyptian Women Legal Assistance (CEWLA), translated from the original Arabic text on file in the Georgetown Women’s Human Rights Center), quoted in a paper written by Marji Kirkwood on honour killings in Egypt, 1999.

33 – Abd-al-Ilah Muhammad, *Official Slaughters Sister and Rips Apart Her Body Because of a “Rumor”*, Al-Ahrar, December 16, 1998. (This material was provided CEWLA, translated from the original Arabic text on file in the Georgetown Women’s Human Rights Center), quoted in *ibid.*

34 – Center for Egyptian Women’s Issues, *Violence and Honor Crimes*, 1998, quoted in *ibid.*

35 – *Brother Murders Sister With an Axe Because of Her Misconduct*, Al-Ahrar, November 6, 1998. (This material was provided by CEWLA, translated from the original Arabic text on file in the Georgetown Women’s Human Rights Center), quoted in *ibid.*

36 – Muhammad Sa’id, Al-Wafd, see note 30.

- A wife was shot in “a sensitive spot of her body” because her husband had doubts about her “behaviour”. She did not die.³⁷
- A young woman was killed by her brother because of her bad reputation in their village. However, a pathologist established that the young woman was a virgin.³⁸
- A young woman was killed by her father after trying to run away on her wedding day. “He pursued her and began hitting her on the head with a metal object in the presence of passers-by until she died”.³⁹
- A woman who had completed a two year sentence for adultery was saved by the police from being murdered by her three brothers. They wanted to “erase their dishonour” because of their sister’s adultery.⁴⁰
- In September 1998, a girl was murdered by her brother because of a rumour. Her body was displayed for all to see.⁴¹
- In October a husband murdered his wife and their children because of doubts regarding her “behaviour”.⁴²

Over half of the actual or attempted murder cases reported in Egypt occur within families, either by spouses, parents, children, in-laws, or rejected fiancés.⁴³ Official statistics indicate that murders committed in defence of honour accounted for 5.4% of all the murders committed in 1997.⁴⁴ In a four-month study for 1998, there were a total of 14 murders allegedly motivated by honour.⁴⁵ Of those, five were motivated by mere suspicion, one case was motivated by the woman’s occupation (she was a dancer), and eight were by pregnancy resulting from adultery.⁴⁶ Studies show that this

37 – *Ibid.*

38 – *Ibid.*

39 – *Ibid.*

40 – *Police Thwart Brothers’ Attempt Erase Their Dishonor by Murdering Their Disreputable Sister After Her Release from Prison*, Al-Ahram, December 6, 1998, quoted in Marji Kirkwood, see note 32.

41 – Center for Egyptian Women’s Issues, *Violence and Honor Crimes*, 1998, quoted in *ibid.*

42 – *Ibid.*

43 – *Enid Hill, Mahkama! Studies in the Egyptian Legal System, Courts & Crimes, Law & Society*, 126, 1979, quoted in *ibid.*

44 – Muhammad Sa’id, Al-Wafd, see note 30.

45 – Center for Egyptian Women’s Issues, see note 34.

46 – *Ibid.*

type of crime is prevalent in Upper Egypt, the Egyptian countryside, and in low-income urban neighbourhoods.⁴⁷

Keeping tabs on virginity is therefore rigidly enforced. The least threat to women's values and morality is severely repressed, hindering their entrance into the public sphere.

III.4 Early Marriages

Egyptian law stipulates that the legal age for marriage is 16 for girls and 18 for boys. OMCT fears that the age difference in this law encourages the completion of education for boys at the age of 18, while curtailing that of girls, implying that it is of lesser importance.

Moreover, this law is rarely enforced and marriage of even younger girls is common. A study conducted by the Minister of Health of Upper Egypt revealed that 44% of rural women married between 1989 and 1993 were under 16 years old at the time of their marriage.⁴⁸ Traditional, religious and economic motives dictate such marriages. Through the practice of the *mahr* or bride price, some families see early marriages as a means of improving their financial situation.

Early marriage often leads to early pregnancy, before girls are biologically and psychologically mature, which is detrimental to the lives of both the mother and the child.⁴⁹ The Beijing Platform for Action addressed the problems of early pregnancy associated with child marriage, urging Governments "to enact and strictly enforce laws concerning the minimum legal age of consent and the minimum age of marriage and raise the minimum age for marriage where necessary."⁵⁰

According to the national statistics from the Egypt Demographic and Health Survey (1996) of a sample of 14,000 married women, of those who reported having being beaten, 32% were beaten during pregnancy, with

47 – Muhammad Sa'ïd, Al-Wafd, see note 30.

48 – Laila Shukry Al-Hamamsy, *Early Marriage and Reproduction in Two Egyptian Villages*, Paper for the Population Council/UNFPA, Cairo, 1994, quoted in: Marlyn Tadros, see note 21, pp. 14 -15.

49 – Abortion: A tabulation of available data on the frequency and mortality of unsafe abortions, WHO Doc., WHO/FMF/MSM/92.13, 2nd edition, Maternal Health and Safe Motherhood Programme, Division of Family Health, World Organisation, Geneva, 1993, Violence Against Women, WHO Doc., WHO/FRH/WHO/97.8.

50 – Beijing Platform for Action, para. 274.

younger pregnant women experiencing this more frequently than older women (41% of women aged 15-19 compared to 26% of women aged 40-49).⁵¹ This indicates the low status of younger married women within the family.

III.5 Female Genital Mutilation

The State Council, the country's highest administrative court, outlawed female genital mutilation (FGM) on 28 December 1997, reversing a lower court ruling of summer 1997 which overturned the Health Ministry's ban on the practice. The State Council said: "circumcision of girls is not an individual right under Islamic law because there is nothing in the Koran which authorises it and nothing in the Sunna" - traditional accounts of how the Prophet Mohammed lived his life. The court ruled: "henceforth, it is illegal for anyone to carry out circumcision operations, even if the girl or her parents agree to it." Offenders may be sentenced to up to three years in prison.

According to the fourth and fifth government report, page 44, FGM "has largely been wiped out thanks to assiduous government measures, and now persists only in the remotest areas." However, according to other sources the percentage of women who are victims of FGM remains alarmingly high: WHO statistics for 1995 showed an estimated 97% prevalence of FGM⁵² and another survey published on the WHO web site found that 80% of the female population are victims of FGM.⁵³ Female genital mutilation is practised throughout the country by both Muslims and Christians. In Egypt, the most common procedure involves subtotal clitoridectomy: the clitoris is held between the thumb and index finger, pulled out and amputated with one stroke of a sharp object, although in areas of southern Egypt closer to Sudan the most extreme form of FGM, (known as infibulation), involves the complete removal of the clitoris and labia minora, together with the inner surface of the labia majora. The raw edges of the labia majora are then fused together, using thorns, poultices or stitches to hold them in place, and the legs are then tied together for two

51 – Quoted in Al-Nadim Centre for the Rehabilitation of Victims of Violence et. al., see note 5, p. 22.

52 – World Health Organisation, Female Genital Mutilation: An Overview“, 1998, available at <http://www.who.int/dsa/cat98/fgmbook.htm#46>.

53 – World Health Organisation, “Female Genital Mutilation: Information Pack”, available at: http://www.who.int/frh-whd/FGM/infopack/English/fgm_infopack.htm# Prevalence and Distribution.

to six weeks. The healed scar tissue creates a hood of skin which covers the urethra and part or most of the vagina, creating as a physical barrier to intercourse. A small opening is left at the back to allow for the flow of urine and menstrual blood. The opening is surrounded by skin and scar tissue and is usually 2-3 cm in diameter but may be as small as the head of a matchstick.⁵⁴

OMCT is very concerned about the percentage of women who are victims of FGM as the practice is extremely violent and has a disastrous effect on the health of the child, both at the time and in the future.

Violence against Women in the Community

IV

IV.1 Rape

Article 267 (1) of the Penal Code states that: “Anyone who performs a sexual act (waqa’s) with a woman without her consent will be punished by life imprisonment or a fixed sentence of forced labour.” Also qualified as rape is a sexual act performed on a woman rendered incapable of denying consent, through the use of drugs or hypnosis, or because of illness or madness.

Rapes are allegedly difficult to pursue legally. According to information received, judges take into account the way the woman was dressed when she was raped. In addition to the fact that the burden of proof rests with the victim - with all its consequent legal, social and cultural implications - the law in such cases only covers situations involving a man and a woman with the proviso of vaginal penetration by the penis.⁵⁵ Other forced sexual acts (such as anal intercourse or penetrating a woman with other parts of the body or with objects) are therefore excluded from the definition of rape,

54 – World Health Organisation, *Female Genital Mutilation: An Overview*, 1998, available at: <http://www.who.int/dsa/cat98/fgmbook.htm#Africa>.

55 – Court of Cassation, session of 16 March 1970, year 21, no 15, p. 382, quoted in Sami A. Aldeeb Abu-Sahlieh, see note 28, p. 12.

even though they are perceived by a woman as being just as traumatic as other forms of rape. Other acts of a sexual nature are treated as indecent assaults and are punishable under articles 268 et seq. of the Penal Code which merit a lesser penalty.

A heavier sentence, life imprisonment with forced labour, is provided by the Egyptian penal legislation when a rape is committed by a relative of the victim, a person charged with her education, her care or who has authority over her, by an employee of the victim or the employee of the above mentioned persons (article 267 (2) of the Penal Code). Moreover, article 290 of the Penal Code sentences to capital punishment anyone who kidnaps and rapes a woman.

OMCT welcomes the promulgation of Law No. 14 of 1999, mentioned in the fourth and fifth government report, which abrogates article 291 of the Penal Code offering a pardon to the abductor in the event of marriage to the abducted person. It was reported that women tended to accept marriage to abductor rapists in order to save their honour and to mitigate the shame for their families.⁵⁶

IV.2 Violence against Women Migrant Workers

In addition to the violence suffered at the hands of their employers, migrant workers in Egypt are equally the prey of the police. In Cairo, women from Sudan, Ethiopia, Eritrea, Nigeria and the Philippines form one group of domestic workers who are either legally, or illegally, residing and working in this city. These women, often deprived of their rights as citizens and fearing deportation to their countries (in particular the Southern Sudanese), are often more vulnerable to violence.

According to reports, African immigrants are harassed in the street on the basis of their appearance although many wear a hijab or scarf in the street in an effort to appear more “Egyptian”. During 1996-1997, there were several government round-ups, house arrests and mass arrests of such women who reported being beaten and sexually assaulted by the police; one woman jumped from her flat and broke her leg trying to escape the police.⁵⁷

56 – Muhsin Abdel-Aziz Muhammad, “Al-himayah al-gina’iyyah lil-’ard”, Dar al-nahdah al’arabiyyah, Le Caire, 1989, p. 282, quoted in Sami A. Aldeeb Abu-Sahlieh, see note 28, p. 13.

57 – In answer to OMCT’s questionnaire on violence against women by an expert who wishes to remain anonymous.

IV.3 Trafficking in Women and Exploitation of Prostitution of Women

In October 1998, the police dismantled an international prostitution ring which brought Ukrainian, Armenian and Russian women to Egypt in the guise of tourists. The women and two Russian men who had brought the women to Egypt were arrested. The women had been working for three months as prostitutes in Cairo, and the Red Sea resorts of Hurghada and Sharm al-Sheikh

OMCT is very concerned that the law No 10 of 1961 also makes criminals of women who work as prostitutes. In many cases these women are forced into prostitution. The treatment of trafficked women is characterised by some of the most horrendous violations of human rights, including the cases of women who initially travel voluntarily. They are doubly victimised by criminalisation of their activities.

Violence against Women Perpetrated by the State



Since the State of Emergency proclaimed in 1981, following the assassination of President Anwar Sadat, and extended for three more years by a presidential decree approved on 22 February 2000 by the People's Assembly, thousands of members (or presumed members) of forbidden Islamic groups have been detained without being charged or tried. The Egyptian Organisation for Human Rights (EOHR, a member of the OMCT-SOS Torture Network) pointed out that the circle of victims of the Emergency law has expanded to include intellectuals, social activists, political activists, and finally human rights activists.

Equally, women are targeted by the State for their public activism and for entering the public sphere, which is perceived as a threat to their moral values. As long as women remained within socially acceptable boundaries,

their protection was guaranteed. With women's new-found outspokenness, however, came the threat and use of prison as a means of controlling them.

But women are also targeted by the State in their private roles as mothers, sisters, wives, partners and daughters of activists. They are the victims of a policy known as "hostage-taking". In these circumstances, women are particularly vulnerable to rape, the threat of rape and other sexual mistreatment. As this type of sexual abuse is considered a severe offence against both a woman's honour and that of her family, it is used against women to force wanted persons to give themselves up, or to extract information and evidence on the activities of husbands and family members.⁵⁸ Women are also pressured to divorce husbands who are arbitrarily detained or serving prison terms.

OMCT believes that the Emergency Law has led to grave violations of human rights in Egypt by restricting the fundamental freedoms of individuals and groups and by violating the right to fair trial by referring civilians to exceptional courts. Moreover, the legislation adds to the poor human rights situation in Egypt.

V.1 Shortcomings in the Legislation

The Constitution of Egypt, in its article 42, prohibits the infliction of "physical or moral harm" upon persons who have been arrested or detained. Article 57 of the Constitution condemns torture as a constitutional crime. Furthermore, article 41 of the Code of Criminal Procedure states that no one is to be arrested or detained without a warrant from the competent authorities, and that any person arrested or detained shall be treated in the manner concomitant with the preservation of his dignity and that no moral or physical harm shall be inflicted upon him. Finally the High State Security Court of Emergency has recognised the invalidity of a confession obtained under torture.⁵⁹

However, reports underline the lack of legal safeguards for the protection of detainees from torture. This lack is manifested mainly in the inadequate definition of the crime of torture as provided in article 126 of the Penal

58 – Human Rights Watch/Middle East, *Egypt: hostage-taking and intimidation by security forces*, January 1995, Vol. 7, No. 1, p. 3.

59 – Case No. 145/1983, quoted in Human Rights Centre for the Assistance of Prisoners, *The Price of Dignity, Torture in Egypt is a Judicial Reality*, 1999, p. 8.

Code which, among other deficiencies only deals with one situation: that of the public official who commits torture with the aim of extracting confessions. Under this article, torture of a defendant or orders to torture are felonies punishable by forced labour or prison sentences ranging from three to ten years. If the victim dies, the crime is one of intentional murder punishable by a life sentence to forced labour.

Article 126 of the Penal Code does not recognise that torture has occurred when acts violating the physical or psychological integrity of a person have taken place against someone not accused of any crime, or when these acts are committed for a reason other than extracting a confession. Such deficiencies are particularly worrying in the light of the common Egyptian practice of “hostage taking” as described above. Moreover, such a definition does not punish torture perpetrated in the prisons or committed without the intention of extracting a confession.

Acts of torture not covered by article 126 of the Penal Code fall under article 129 of the Penal Code which provide as punishment for the use of force, a maximum of one year’s imprisonment or a fine that may not exceed 200 Egyptian Pounds. Besides the leniency of the penalty, cases of psychological torture are not covered by this article and thus go unpunished if they are committed against a person not accused of anything and in a context other than that of extracting a confession. Moreover, article 63 of the Penal Code gives public servants further protection by stating that there is no crime when the act has been committed by a public employee in implementation of an order made by a superior, or in good faith in implementation of the legal texts or what he believed to be his jurisdiction.

OMCT is very concerned about the frequent recourse to torture and other cruel and inhuman treatment or punishment, arbitrary arrests and the impunity of those acts, due to the above mentioned legal loopholes, the ongoing State of Emergency, failure of the Egyptian authorities to investigate torture cases and charge those responsible, as well as the threats and pressure put on victims by the police and the security forces to ensure that charges are dropped.

V.2 Cases of Torture of Women

- Amal Faouq Mohammad Al-Maas (28), married with three children, is one of the Egyptian women taken hostage and tortured by the

authorities to obtain evidence against men in their families who are suspected of being Muslim militants. Amal Farouq Mohammad Al-Maas was arrested by State Security Investigations (SSI) officers and detained twice, once in April 1993 and again in July 1996 and was reportedly tortured on both occasions. The first arrest took place on 26 April 1993, hours after the police captured her husband, Ahmed al Sayid, who is now serving a 25-year sentence for an assassination attempt on Egypt's Minister of Information. She was released on the night of 27 April 1993 after having reportedly been blindfolded, stripped down to her underwear, threatened with rape, whipped with a cable, severely beaten, had her back slashed with razor blades and forced to sign a paper stating that weapons and explosives had been found in her house and that her husband had behaved abnormally during the preceding two months. Having filed a complaint against her interrogators through her lawyer with the Ministry of the Interior, she was once again arrested on 1 July 1996 and detained for ten days for trying to bring the police into disrepute. While in detention, Amal Farouq Mohammad Al-Maas was subjected to electric shocks and one of the interrogators sexually abused her. On her release, she had to be admitted to hospital for two weeks for psychiatric treatment.⁶⁰

According to reliable sources, torture and ill-treatment are also practised in police stations against citizens who are accused or detained in connection with criminal cases and not political ones.⁶¹ It is reported that torture and ill-treatment usually occur immediately after the arrest and before presenting the detainees to the relevant prosecution office in order to force them to make confessions. Methods of torture used include electric shocks, stubbing out cigarettes on various parts of the body, beatings with sticks, sexual abuse, rape or threats of rape.

- Nagwa Fadl Tawfeek was arrested on 10 October 1998 and taken to the police station, where “they removed my head cover, beat my face with their hands, and then tied my legs and raised them while they beat my feet with a stick for 15 minutes. Then, the officer ordered me to stand up and kept beating me on my head and the whole body with a stick. (...) Then, I was taken to an empty room, where an officer came with someone else and tried to rape me (...) he tried to remove my clothes

60 – Mail & Guardian, *Egypt targets women in anti-Muslim war*, 3 March 1998.

61 – Egyptian Organisation for Human Rights, (EOHR, member of the OMCT network) *Torture inside police stations must be stopped*, Third report by EOHR on Torture and ill-treatment inside police stations, pp. 1-2.

and touch my breasts. He told me that he would order the guards to rape me. He grabbed me from the shoulders and kept shaking me violently, beating me all the while on the back and everywhere.” Nagwa Fadl Tawfeck does not present visible marks, but she complains of pain all over the body, her head and back.⁶²

It is important to note that the low economic and social status of women has serious consequences on their access to adequate remedies and reparations.

Violations of Women’s Reproductive Rights



Early marriage and therefore a longer reproductive life increases the risk of unwanted pregnancy, which a woman could choose to terminate. However, this is a risky undertaking in Egypt as abortion is illegal, except for those whose lives are endangered by pregnancy.

Women are forced to resort to clandestine procedures, which pose serious health risks or even result in the death of the woman. According to a study on the quality of reproductive health care services, 46% of abortions in Egypt are performed in “back street clinics”.⁶³

62 – Testimony quoted in *Torture in Egypt. Police excesses and the difficulty of obtaining evidence*, Seventh EOHR report on torture and ill-treatment inside police stations in Egypt, 1999, p. 15.

63 – L. Nawar, *Quality of Care in Reproductive Rights Health Services*, 1994.

VII

Conclusions & Recommendations

Despite the fact that the Egyptian Constitution provides for equality between men and women and bans discrimination against women, women do not fully enjoy human rights on an equal footing with men. In fact, OMCT has found that in all areas of life, women suffer from discriminatory practices, due to a number of factors, including the persistence of a traditional male-dominated society.

OMCT is very concerned about the subordinate role of women in the family and in Egyptian society. The low economic and social status of women in Egyptian society, which has a strong influence on their access to education and employment, renders women vulnerable to violence, and may in itself be a form of violence. Violence against women, a manifestation of historically unequal relations between men and women, is an extremely serious social problem in Egypt, hindering the advancement of women. Moreover, violence against women is one of the crucial mechanisms that force women into a subordinate position compared to men. It is a vicious circle that needs to be broken.

The fourth and fifth combined government report states on page 90 that “early marriage below the legal age, illiteracy, and a low standard of living, which prevent them from freely expressing their frank opinion on their prospective spouse (...) such problems are largely confined to rural and remote areas of the country, and currently affect only a small percentage of women.” However, OMCT has found that in the field of education, literacy and employment, the disparity between the percentage of men and women is very high and that women’s access to crucial health care is very limited. Moreover, OMCT notes with concern that the difference in the marriageable age for men and women in the law, is in reality even greater.

Discrimination against women is also still evident in a number of laws currently in force including personal laws, laws on civil competence, and the penal code. Polygamy is still a legal right for men. In certain circumstances Egyptian women are unable to vest their nationality in their children.

With regard to the decision of the Supreme Constitutional Court on travel documents (passports) for Women, OMCT is concerned over the wording “this does not stop the legislature from passing legislation that would regulate the issuing of passports for women, balancing their right to freedom of movement (...) with the provisions of article 11 of the Constitution that

reaffirms “coordination between a woman’s duties towards her family and her work in society, considering her equal to man in the political, social, cultural and economic spheres without detriment to the rules of Islamic jurisprudence (Sharia)”, and the provisions of article 2 of the constitution which states that “the principal source of legislation is Islamic Jurisprudence (Sharia)”.

OMCT would urge the government not to pass legislation “regulating” the issuing of passports for women that would violate that right under different constitutional articles, as well as the Convention on the Elimination of All forms of Discrimination against Women.

OMCT is particularly concerned about the unfavourable *de jure* and *de facto* situation of women in the domestic sphere in Egypt, still largely seen as the appropriate place for women, and where most of the violence against women takes place. Although the government report states that in order to combat domestic violence, it has promulgated Law No. 6 of 1998, it provides no information on possible measures taken to protect women from violence and to shelter victims of domestic violence. Moreover, OMCT is very concerned that marital rape is not a crime. OMCT would urge the government to make marital rape a crime.

Furthermore, OMCT would encourage the government to collect statistical data on domestic violence. Adequate information should also be provided to the victims of such violence regarding to their right to compensation.

Although OMCT welcomes the new personal law that gives women more facilities to obtain a divorce, it fears that the new law still contains provisions which may disadvantage women. Women can only get a divorce if they can afford to pay back their dowry, which may be impossible for many women as they are often economically depend on their husband. Neither does the new law improve the conditions of Egyptian Coptic women who must go through the complex procedure of applying for an annulment of the marriage from their church.

Moreover, the law still makes it illegal for any institution to separate a wife from her husband without his consent. Consequently, women cannot seek refuge in a shelter from a violent husband.

In the light of these facts, OMCT would urge the government to use education and the media to change the social perception of a wife’s duty to obey and serve her husband. Moreover, in order to provide for immediate protection from violence, the government should establish shelters or support centres managed by NGOs and revise the law that prevents a

woman separating from her husband without his consent. Although the personal status law has just been amended to allow women the right to divorce, OMCT would urge the government to abolish all the disadvantages for women. Moreover, the government should ensure specialised training of the police, judges, lawyers and prosecutors with regard to domestic violence and the specific problems linked to crime.

OMCT notes with concern the adherence to traditional customs and attitudes towards women, of which one of the manifestations is violence against women. OMCT is very concerned by the existing preference for sons, honour killings, and female genital mutilation. Although female genital mutilation is illegal, it still occurs on a wide scale.

OMCT would urge the government to embark on a programme of measures to eliminate traditional practices that discriminate against women. Such a programme should encompass education, social and legislative measures so that such customs and attitudes are gradually modified and abolished.

With regard to rape, OMCT would recommend that the laws concerning rape should provide for a broad gender definition of rape that protects the victim against all forms of sexual abuse in a non-discriminatory way.

With regard to trafficking in women and prostitution, OMCT recommends the amendment of those provisions of Decree No. 10 of 1961 for the suppression of prostitution, which makes criminals of prostitutes.

OMCT is also very concerned by accounts of torture of women perpetrated by the State. Women are targeted in both their public and their private roles. Women are the victims of a policy known as “hostage-taking”, under which they are particularly vulnerable to rape, the threat of rape and other forms of sexual abuse. Women accused or detained in connection with criminal cases are also the victims of torture and ill-treatment in police stations. A victim seldom complains when rape or another form of sexual abuse is used as a form of torture, out of fear and shame, thus leading to the negation of this violence and the impunity of the torturer. The honour of the family rests on an entire social code of behaviour imposed on women and girls, leading to silence on the part of the victim-survivor.

OMCT is particularly concerned by the ongoing State of Emergency in Egypt which seems to have spawned a culture of violence among certain elements of the police and security forces. Moreover, OMCT notes with concern that the criminal legislation does not contain a definition of torture fully covering all the elements contained in article 1 of the Convention against Torture. OMCT is particularly concerned about the fact that torture

and ill-treatment are met with impunity, leading officials to believe that such criminal practices are tolerated or expected. This climate of impunity is due to legal loopholes, the failure of the Egyptian authorities to investigate cases and charge those responsible, as well as threats and pressure put on victims by the police and security forces to ensure that charges against them are dropped.

Hence it would recommend the enactment of a law identifying torture as a specific crime which enables prosecution of torture, as defined in the Convention, and ensures the application of appropriate penalties. Moreover, OMCT would recommend that an independent and impartial investigative body be established to inquire into human rights violations committed by agents of the State. Furthermore, OMCT would recommend that victims of torture and other cruel, inhuman or degrading forms of treatment and punishment benefit in all circumstances from the right to obtain redress and effective compensation for the harm suffered.

Finally, OMCT would insist on the need to implement all provisions of the Women's Convention and to repeal the reservations made to this Convention. Moreover, it would insist on the implementation of Beijing Rules and Platform for Action, the Beijing+5 Outcome Document and the Declaration on the Elimination of Violence Against Women as they are the most relevant international instruments concerned with all forms of violence against women. OMCT would also recommend that Egypt ratify the Optional Protocol to the Convention, enabling the Committee to receive individual communications relating to Egypt and to conduct inquiries into grave or systematic abuses of women's human rights. ■



*24th session
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**Concluding Observations of the
Committee on the Elimination of
Discrimination Against Women:
Egypt**

Introduction by the State Party

1. The Committee considered the third report and the combined fourth and fifth periodic reports of the Arab Republic of Egypt (CEDAW/C/EGY/3 and CEDAW/C/EGY/4 and 5) at its 492nd and 493rd meetings, on 19 January 2001.

2. In introducing the reports, the representative of Egypt emphasized the improvement in favor of women in the following domains: legal, institutional and practical domain. In the legal domain many laws were amended in favor of women such as family laws. The National Council for Women (NCW) was created in February 2000 by Presidential Decree as the first political institution focusing on the empowerment of women, monitoring of implementation of the Convention, laws and policies affecting women's lives. The Council reports directly to the President, and its 30 members have been selected from different disciplines and sectors, including the academia community and non-governmental organizations. The representative stressed the importance of collaboration between non-governmental organizations and the NCW, particularly with regard to the implementation of programs aiming at the reduction of poverty resulting from privatization and structural adjustment programmes, particularly among female-heads of households in both rural women urban poor areas.

3. The representative informed the Committee that, during the 2000 elections, the National Council for Women had supported women's participation both as candidates and as voters. Women's awareness of the importance of political participation had increased. The number of female candidates had consequently increased from 87 in 1995 to 120 in 2000, with 7 candidates being elected in 2000 as opposed to 5 in 1995.

4. The legislative committee of the National Council for Women had reviewed the current nationality law and recommended that it be amended to entitle Egyptian women married to foreigners the right to confer their nationality on their children. It had also reviewed the draft labour law, recommending amendments to ensure that existing benefits, including maternity leave and leave to care for children, remained available for all working women, including those in the Government, public or private sectors. In addition, the legislative committee is reviewing the draft law on passports which had been formulated in response to the Supreme Constitutional Court's ruling that a ministerial decree requiring the husband's consent to the issue of a wife's passport was unconstitutional.

The legislative committee within the NCW would initiate a campaign to raise awareness of this draft law, and had also formed a committee to elaborate a new family code.

5. The representative informed the Committee of recent laws and regulations seeking to eliminate discrimination between women and men. These included Law No. 12 of 1996, passed in compliance with the Convention on the Rights of the Child, to provide protective measures for mothers and children and guarantee the rights of women as mothers and working women, and Law No. 1 of 2000, enacted after a ten-year period of consultation, which entered into force on 1 March 2000, which, *inter alia*, grants women the right to “*khul*” or unilateral divorce by repudiation without the need to prove damage. Executive decrees issued as a result of Law No. 1 of 2000 included a new marriage contract, which came into effect on 16 August 2000, elaborating protective provisions, such as financial provision and polygamy. Also in the Penal Code, article 291 which provides a defense in cases of kidnap and rape where the defendant marries the victim was repealed.

6. The representative noted that, despite the progress that had been made in implementing the Convention, there were a number of areas that required attention. They included discrimination against women with regard to the nationality of their children, the low representation of women in many areas of decision-making, including the Parliament, the absence of women in the judiciary, the high levels of illiteracy among women and girls and violence against women. In order to overcome these obstacles, she indicated the importance of human rights education, the National Council for Women is pursuing an awareness campaign with the aid of the concerned authority. She indicated that human rights education had been included in law courses taught in the Police Academy. She referred to the ongoing awareness campaign and training courses on human rights for law enforcement and legal personnel.

7. The representative indicated that the Government intended to enhance efforts towards the achievements of equality between women and men and the elimination of discrimination against women. She noted that cultural constraints and traditions sometimes impeded change and obstructed implementation of the law. In this context, she indicated that the Government, through the National Council for Women, in collaboration with the Egyptian intelligentsia both men and women, would seek to use indigenous formulations which are deeply rooted in Egyptian and Islamic culture and which assert the equality between women and men. With the

aid of all concerned government and non-governmental agencies, the National Council for Women participate in raising awareness campaign and to ensure proper interpretations and to clarify misinterpretations of religious concepts and to demonstrate that the principles of the Sharia provide for the full equality between women and men, and respect for women's human dignity.

8. In conclusion, the representative informed the Committee that efforts were under way to address the reservations entered by the Government of Egypt on ratification of the Convention. It had recommended the withdrawal of the reservation to article 2 of the Convention, and as far as the reservation on article 9, paragraph 2, and article 16 are concerned, they are actively under review.

Concluding comments of the Committee

Introduction

9. The Committee commends the Government of Egypt on its third and combined fourth and fifth periodic reports, which are in accordance with the Committee's guidelines for the preparation of periodic reports. It also commends the Government for the comprehensive written replies to the questions of the Committee's pre-session working group, and the oral presentation of the delegation that sought to clarify the current situation of women in Egypt, and provided additional information on the implementation of the Convention.

10. The Committee congratulates the Government for the high-level and large delegation, headed by the Secretary-General of the National Council for Women. The Committee appreciates the open dialogue that took place between the delegation and the members of the Committee.

Positive aspects

11. The Committee welcomes the establishment of the National Council for Women, which was created by Presidential decree, reports directly to the President and is mandated to monitor laws and policies affecting women's lives, raise awareness and monitor the implementation of the Convention. The Committee considers that the establishment of the

National Council for Women reflects significant political will and the Government's commitment to enhancing the status of women in compliance with the Convention. The Committee commends the fact that non-governmental organizations are represented in the National Council for Women and participated in the preparation of the reports.

12. The Committee notes the introduction of legal reforms aimed at the elimination of discrimination against women, particularly Law No. 1 of 2000, which, *inter alia*, gives women a right to terminate the marriage contract unilaterally (“*khul*”).

13. The Committee takes note with appreciation of the important reduction of female illiteracy rates obtained by Egypt by implementing special programmes and specific budgetary allocations.

Factors and difficulties affecting the implementation of the Convention

14. The Committee notes that, although the Constitution guarantees equality of men and women and the Convention prevails over national legislation, so that all authorities are bound to implement it, the persistence of patriarchal attitudes and stereotypical behaviour with respect to the role of women and men in the family and society limit the full implementation of the Convention.

Principal areas of concern and recommendations

15. Appreciating the efforts of the National Council for Women to encourage the Government to withdraw the reservations to articles 2, 9, paragraph 2, and article 16 of the Convention, the Committee is nonetheless concerned that these reservations, entered by the State party on ratification, have been retained.

16. The Committee urges the State party to expedite the steps necessary for withdrawal of its reservations and in that regard draws its attention to the Committee's statement on reservations in the report on the nineteenth session¹ and, in particular, its view that articles 2 and 16 are central to the

1 – Official Records of the General Assembly, Fifty-third Session, Supplement No. 38 (A/53/38/Rev.1), part two, chap. I.

object and purpose of the Convention and that, in accordance with article 28, paragraph 2, they should be withdrawn.

17. The Committee notes with concern that women who seek divorce by unilateral termination of their marriage contract under Law No. 1 of 2000 (“khul”) must forego in all cases their rights to financial provision, including the dower.

18. The Committee recommends that the Government consider a revision of Law No. 1 of 2000, in order to eliminate this financial discrimination against women.

19. The Committee is concerned that the Egyptian nationality law prevents an Egyptian woman from passing on her nationality to her children if her husband is not Egyptian, while Egyptian men married to non-Egyptians may do so. It is concerned by the hardship faced by the children of Egyptian women married to non-Egyptian men, including financial hardship with regard to education. The Committee considers this limitation on the rights of women to be inconsistent with the Convention.

20. The Committee calls on the State party to revise the legislation governing nationality in order to make it consistent with the provisions of the Convention.

21. The Committee notes with concern that the persistence of cultural stereotypes and patriarchal attitudes impedes progress in the implementation of the Convention and the full enjoyment of their human rights. In this regard, the Committee is concerned that article 11 of the Egyptian Constitution, which states that “the State shall enable a woman to reconcile her duties towards her family with her work in society and guarantee her equality with men in the sphere of political, social, cultural and economic life”, appears to entrench the woman’s primary role as mother and homemaker.

22. The Committee urges the Government to increase awareness-raising programmes, including those specifically directed to men, and to take measures to change stereotypical attitudes and perceptions about the roles and responsibilities of women and men.

23. The Committee is concerned at the continuing stereotypical portrayal of women in the media, which encourages discrimination and undermines the equality between men and women.

24. The Committee urges the Government, including the National Council for Women, to support the important role of the media in changing stereotypical attitudes towards women and in promoting equality between men and women as prescribed by the Constitution and international standards. It recommends that opportunities should be created for the portrayal of positive, non-traditional images of women and that the number of women in decision-making positions in the media should be increased. It also recommends that the Government establish, within the National Council for Women, a monitoring body on the representation of women in the media.

25. The Committee is concerned that the Government has addressed human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) only as a health issue.

26. The Committee urges the Government of Egypt to address the multi-dimensional and cross-cutting nature of HIV/AIDS, including its human rights, economic, social, development and security dimensions.

27. Taking note of the successful efforts by the Government to reduce the drop-out rate for girls in primary education, the Committee expresses its concern at the remaining high level of female illiteracy and the rate at which girls and young women drop out of secondary school and university.

28. The Committee recommends the Government continue and strengthen its efforts to eradicate female illiteracy, in particular in the rural areas. The Committee calls on the Government to continue its programmes to prevent dropouts by girls in the primary education, and to reduce the dropout of girls and young women at secondary school and university, including through the use of incentives for parents so as to provide young women with the necessary skills and knowledge to participate on the basis of equality with men in the labour market.

29. The Committee is concerned that stereotypical attitudes about the roles of women and men in the family and society are reflected in women's low level of representation in decision-making at all levels and in all areas. The Committee is particularly concerned that, although there is no law that prohibits the appointment of women as judges, no woman has ever been appointed as a judge.

30. The Committee calls on the Government to increase the number of women at all levels of decision-making, including in Government and Parliament. It urges the Government to implement temporary special

measures, such as numerical goals and quotas connected with time frames, in accordance with article 4.1 of the Convention in order to increase the representation of women at decision-making levels in all areas.

31. The Committee is concerned at the lack of information on women's participation and conditions in the labour market, including in the private and informal sectors, and that there is little information and data on the impact of the recent privatization measures taken by the Government.

32. The Committee calls on the Government to provide more information on this area in its next periodic report.

33. The Committee expresses its concern that, although efforts have been made, there is no holistic approach to the prevention and elimination of violence against women, including domestic violence, marital rape, violence against women in detention centres and crimes committed in the name of honour, or the punishment of perpetrators. The Committee is also concerned at the high level of violence against adolescent girls and young married women.

34. The Committee urges the Government to conduct a national survey on the extent of violence against women, including rural women. It calls on the Government to assess the impact of existing measures to address the various forms of violence against women. It recommends that the root causes of violence against women, especially domestic violence, be investigated, so as to improve the effectiveness of legislation, policies and programmes aimed at combating such violence. It also recommends that the Government implement training and sensitization programmes for the judiciary, law enforcement officials and members of the legal and health professions, as well as awareness-raising measures to create zero tolerance in society with regard to violence against women.

35. The Committee expresses concern that several provisions of the Penal Code discriminate against women. In particular, in case of murder following the crime of adultery, men and women are not treated equally. In addition, prostitutes are penalized, while their clients are not.

36. The Committee urges the Government to eliminate any discriminatory penal provisions, in accordance with the Constitution and the Convention.

37. While welcoming the Minister of Health's Decree on 1996 on female genital mutilation, the Committee is concerned at the lack of information on the implementation of this Decree.

38. The Committee requests the Government to provide full details on the implementation of this Decree in its next report, including on public awareness-raising campaigns run by all actors (ministries, the National Council for Women and non-governmental organizations) and on measures which have been taken to educate those whose livelihood depended on performing such procedures.

39. The Committee expresses concern at the lack of information on rural women, especially in the informal sector.

40. The Committee calls on the Government to provide a comprehensive picture of the situation of rural women, in particular with regard to education, health and employment in its next periodic report. The Committee recommends that the Government monitor existing programmes and develop additional policies and programmes aimed at the economic empowerment of rural women, ensuring their access to productive resources and capital as well as to health care services and to social and cultural opportunities.

41. The Committee is concerned about the high number of early marriages of girls, especially in rural areas.

42. The Committee recommends that the Government amends the law on the age of marriage to prevent early marriage, in line with the State party's obligation under the Convention.

43. The Committee is concerned regarding the continued legal authorization of polygamy.

44. The Committee urges the Government to take measures to prevent the practice of polygamy in accordance with the provisions of the Convention and the Committee's General Recommendation 21.

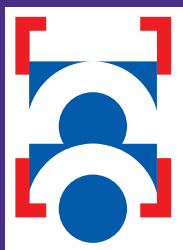
45. The Committee urges the Government to sign and ratify the Optional Protocol to the Convention and to deposit, as soon as possible, its instrument of acceptance of the amendment to article 20, paragraph 1 of the Convention on the Committee's meeting time.

46. The Committee requests the Government to respond to the concerns expressed in these concluding comments in its next periodic report under article 18 of the Convention.

47. The Committee requests the wide dissemination in Egypt of the present concluding

comments in order to make the people of Egypt, and particularly Government administrators and politicians, aware of the steps that have been taken to ensure de jure and de facto equality for women and the future steps required in that regard. It also requests the Government to continue to disseminate widely, in particular to women's and human rights organizations, the Convention and its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action, and the results of the twenty-third special session of the General Assembly entitled "Women 2000: gender equality, development and peace in the twenty-first century".

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