

# Addressing Violence Against Women in Egypt: Legal Frameworks

25 November 2017, by Jasper A. Kiepe and Salma Khamis

*This article is the second installment in a three-part series: In [the first article](#), we gave an overview on the situation in Egypt with respect to sexual harassment, and violence against women more generally. In this piece, we examine the legal frameworks defining the definition, criminalization, and prosecution of cases related to violence against women in Egypt. The final article will feature testimonials from survivors and experts regarding their experiences enduring, and resisting, the endemic practice of violence against women in Egypt.*

## Towards a Unified Law to Eradicate Violence Against Women in Egypt

On Sunday, December 3<sup>rd</sup>, [a number of Egyptian civil society organizations](#) held a press conference, titled “A Unified Law to Eradicate Violence Against Women.” Hosted at the New Woman Foundation headquarters in central Cairo, this press conference detailed the product of months of legal research and cooperation between [an array of women’s organizations](#) and civil society pioneers in Egypt: a comprehensive legal proposal to address the widespread practice of violence against women in Egypt.

In contrast to the 2014 legislation criminalizing sexual harassment, what makes this legal proposal particularly interesting is the connection it is poised to draw between violence against women in both public and private domains. In crafting their proposal as such, civil society organizations involved in the drafting of this legislation aim to adopt a more comprehensive approach towards the eradication of gender-based violence in Egypt. Moreover, [early media reports](#) indicate the proposal’s inclusion of specific procedures to protect the *survivors* of gender-based violence, representing a groundbreaking development in the field of legal reform with respect to women’s rights in Egypt.

This proposal is, therefore, an opportune occasion to address the relationship between the legal domain and violence against women in Egypt. What potential does the law have to tangibly reduce the incidence of violence against women? What are the limits of the legal reform process in defining, criminalizing, and prosecuting violence against women? Are there preexisting features of the Egyptian constitution, penal code, and code of personal status that bolster or hinder legal reform processes? Based on the preexisting legal frameworks and social constraints, what is the most productive and effective way forward to ensure that gender-based violence is dealt with justly in Egyptian courts, and treated with the sensitivity and urgency it requires throughout public social

discourse? The following report will attempt to touch upon all of these issues, offering a glimpse into the complexities, successes, and pitfalls of legal reform efforts with respect to violence against women in Egypt.

## Legal Developments: 2011 - 2017

Upon consulting the Egyptian constitution, one would not think that existing Egyptian legal frameworks fail to adequately address the problem of violence against women. In fact, “There are a lot of gaps in Egyptian law. This is particularly interesting because the Egyptian constitution is very clear about the equality of women,” says Samar Roushdy, Youth Policies Coordinator at the League of Arab States and a lawyer with extensive experience working with civil society and intra-governmental organizations on women’s issues.

Roushdy refers to Article 11 of [the 2014 Egyptian constitution](#) to demonstrate her point: “The State shall ensure the achievement of equality between women and men in all civil, political, economic, social, and cultural rights in accordance with the provisions of this Constitution [...] **The State shall protect women against all forms of violence** and ensure enabling women to strike a balance between family duties and work requirements.”

Notwithstanding, Roushdy stresses, “despite the constitution’s presets, there are several laws discriminating against women,” especially in the penal and personal status codes. In turn, these discriminatory laws disproportionately affect Egypt’s most vulnerable women: survivors of violence within and beyond the home.

With that said, the post-revolutionary era since 2011 has witnessed a series of developments in the legal domain, in both content and process. Roushdy sheds light on a significant shift in the *process* of legal reform on women’s issues in post-revolutionary Egypt: “Before 2011, legal reform processes strictly followed a top-down approach. After 2011, the civil society began to contribute more and more. Now, however, due to the recent NGO legislation, domestic civil society is not as active as it used to be in 2011-2013.”

It can be difficult for civil society organizations to navigate the jungle of laws in Egypt: “There has to be someone in the civil society who identifies *if* there is a law, before. You might go for aggravating a penalty or raising awareness but often people do not realize that there *is* an existing law actually.”

Despite the challenges civil society organizations currently face, some developments *have* occurred in the legal reform process, thanks to the stimulation of public discussion. Roushdy points

to the 2014 law criminalizing sexual harassment as one of the few exceptional legal achievements in the post-revolutionary period. The Egyptian parliament criminalized sexual harassment by law in 2014, with financial penalties and prison time as punishment (“Laws against sexual harassment”, [harassmap.org](http://harassmap.org)). More recently, an [Egyptian parliamentary committee suggested stepping up penalties against perpetrators in 2017](#).

Recently, a [Thompson Reuters Foundation poll](#) suggested that Cairo was voted “the most dangerous megacity for women 2017.” The poll was critically received by various Egyptian and international media outlets (including the [BBC](#) and [France24](#)) and, in turn, reignited public discussions about Egypt's problem with endemic sexual harassment.

Another success of civil society organizations was the ban implemented on the practice of Female Genital Mutilation (FGM). FGM was officially banned in Egypt in 2008. It was not until 2015, however, that an FGM case made it to court, with the prosecution of a doctor who performed a fatal FGM procedure on a 13-year-old girl. Widespread media coverage of the victim’s death and the related legal case prompted fervent debate surrounding FGM throughout Egyptian society. Nevertheless, although the story was initially hailed for paving the way for the prosecution of FGM practitioners, authorities were subsequently strongly criticized [after it was revealed that the perpetrator spent only three months in jail](#). However, the public outrage that followed led to further sanctions against people still committing the illegal procedure and has motivated [Egyptian authorities to revoke the doctor's license](#). Ultimately, accumulated public disapproval and pressure placed by anti-FGM advocates [led to the shutdown of a hospital in Suez, after the death of a 17-year old girl](#).

## Current Legislation: Contradictions and Gaps

Despite the modest legal improvements made in the post-revolutionary period, preexisting legal frameworks work to hinder the effect of these developments, and any future efforts towards eradicating violence against women in Egypt. The obstacles that current legal frameworks pose these efforts can be grouped accordingly: legal **contradictions** (i.e. existing legal precepts that contradict Article 11 of the Egyptian Constitution, where the State claims to protect all women from violence) and legal **gaps** (i.e. manifestations of gender-based violence prevalent throughout Egyptian society but thus far unaddressed in Egyptian legal frameworks).

In our interview with Roushdy, she recounted a number of legal articles that, in action, contradict the Egyptian State’s mandate to protect women from all forms of violence. For example, Roushdy drew attention to Article 17 of the [Egyptian penal code](#), which gives judges the right to severely

decrease perpetrators' sentences in cases related to "honor." As such, this legal caveat allows many criminals, often convicted of crimes related to sexual harassment, assault, and/or rape, to escape lengthy sentences with a small fine or minimal jail time. As highlighted by [Nazra for Feminist Studies](#), "Article [17] is frequently used in cases of rape and indecent assault against women, resulting in many unfairly reduced sentences." Thereby, in effect, Article 17 of the Egyptian penal code diminishes the State's capacity to justly prosecute perpetrators of violence against women, in contradiction to the mandate stipulated in Article 11 of the Egyptian constitution.

Similarly, Roushdy noted Article 60 of the Egyptian penal code, which excuses applications of the penal code to "any deed committed in good faith pursuant to a right determined by virtue of the *Shari'a*." Tangibly applied, this article is too often invoked in cases of domestic abuse committed by male patriarchs. As long as a perpetrator can argue that the violence they committed was intended to "teach a lesson" to women family members, or was "in the family's best interest," they can walk away, penalty-free. It goes without saying that such a provision stands in stark contradiction to the Egyptian state's mandate to protect women. "Good faith" justifications are, by definition, subjective and open to many interpretations and manipulations. To leave it up to a judge to decide the amount of violence excusable for a family patriarch to exert upon his women relatives is to significantly diminish the chances that perpetrators of violence are justly prosecuted. This essentially allows for the judge's personal opinions (socially, religiously, and culturally informed) to take the reins.

With respect to the legal *gaps* hindering efforts towards the just recognition and prosecution of gender-based violence in Egypt, Roushdy pointed to the absence of legal precepts criminalizing workplace sexual harassment and assault as an example. "Employment law is virtually silent on this issue," Roushdy notes. "This is a particularly critical problem for domestic workers, who tend to be especially vulnerable due to their young age and low socioeconomic status." As of yet, there is no way for women survivors of violence in the workplace to seek legal recourse or any kind of justice from their abusers.

A report prepared by the [Euro-Mediterranean Human Rights Network](#) highlights the gaps in the Egyptian penal code, which prevent the *real* eradication of female genital mutilation (FGM). Although Article 242 (2008) of the Egyptian penal code criminalizes FGM, Article 61 "allows for harmful actions in case of necessity to protect oneself or others." Therefore, Article 61 is often used to justify the performance of FGM, under the guise of medical necessity (although a plethora of scholarly research has shown no real medical benefits of FGM). By failing to outlaw the practice of FGM outright, and repeatedly invoking Article 61 of the penal code to justify its occurrence,

Egyptian legal frameworks “medicalize” the practice of FGM, endowing it a false sense of medical justification.

## Beyond the Law

There is still a lot that needs to be done beyond drafting and ratifying legal proposals to address the aforementioned gaps and contradictions, however. Roushdy points out that civil society is currently inactive but also has immense potential: “civil society *can* create a momentum and this can raise awareness. This was what happened with sexual harassment: there was a real push that allowed girls to talk about their experiences with sexual harassment, share their stories, and relate how violence against women impacts the whole society.” This, according to Roushdy, was an important feature of the anti-sexual harassment campaign, because sometimes a lack of social awareness is not the product of bad intentions, but is just that: a lack of awareness. “A problem has to be *translated* to the people, so that they will understand it better,” stressed Roushdy when asked about the strategies she recommends to raise awareness about women’s issues in Egypt.

Despite the widely publicized anti-sexual harassment campaign, and the subsequent process of legal reform, public awareness and the *application* of the law by authorities are not always given – especially in rural areas, like Upper Egypt and the Sinai Peninsula. Here, it is not only important to raise communities’ awareness about anti-sexual harassment laws, but also about how survivors can begin to seek legal recourse, to ensure that women know their rights, and perpetrators know the potential consequences of their discriminatory and violent actions. There is a marked absence of effective public social service providers beyond urban centers. In rural areas NGOs have an even greater responsibility to conduct educational activities in this regard to sensitize the local population about these issues, says Roushdy. “Awareness, especially in the rural areas of the country, is left with the civil society.”

Roushdy also underlined the importance of ensuring that the *rule* of law is respected in Egypt. New and preexisting legal precepts have little effect if they are not implemented, or if their implementation is not adequately monitored by relevant authorities. “Law makers are not only concerned with legislating laws, but also with *monitoring* the law, and this is even more important,” says Roushdy. Similarly, it is lawmakers’ responsibility to ensure that any laws ratified have the adequate funding within the national budget for their successful implementation. Roushdy noted that this is an oft-underreported impediment towards the successful application of many legal precepts in Egypt. Many times, the lack of an appropriate budget is the problem. Roushdy says it is not only important to have new or better laws, but also to take legislators up on their promises to budget accordingly for the implementation of existing laws.

When asked about what existing legal frameworks could be supplemented with to render them more effective in the fight against gender-based violence; Roushdy emphasized the importance of educating and offering special training to a number of officials responsible for dealing with survivors of violence, so as not to exacerbate their harm. After all, the implementers of the law are the first who need to be aware of it: “judges, police officers, doctors need to be trained,” says Roushdy. Judges and police officers have to be educated on the legal framework, and act accordingly with cases of gender-based violence, respecting the privacy and vulnerability of survivors. The draft legislation prepared by Egyptian civil society organizations aims to address this critical issue.

Roushdy also pointed out another interesting dimension in the discussion surrounding legal measures to address violence against women: Although long ignored in media and public discourse, it is a well-known, albeit unconstitutional, fact that women are never appointed as judges in Egypt. Article 11 of [the Egyptian Constitution](#) states, “The State shall also guarantee women’s right of holding public and senior management offices in the State **and their appointment in judicial bodies and authorities without discrimination.**” Nevertheless, Roushdy clarified that, with the exception of a few women superficially appointed as family court judges in 2007, there has never been a woman judge appointed to the State Council court, or the General Prosecution, with all qualified candidates sidelined for “not possessing the requisite capabilities.” Interestingly enough, this issue has only recently garnered [local media attention](#) due to a prominent parliamentarian indicating [her intentions to submit a legal proposal](#) to address the appointment of women to Egypt’s State Council.

Addressing the question of women judicial appointees does not necessitate legal reform, as much as it does the *implementation* of the preexisting framework laid out in Article 11 of Egypt’s Constitution, which promises to provide women with access to positions of judicial authority without discrimination. In so doing, women judges may help ensure the fair and just implementation of preexisting legal frameworks that address violence against women specifically, and women’s empowerment more generally. Moreover, the very *act* of appointing capable women judges will contribute towards the overarching elevation of women’s social and political standing in Egypt.

## **Conclusions: Recognizing Violence Against Women as Part and Parcel of a Larger Problem**

It is pivotal to observe violence against women in Egypt from a meta perspective: In the [2015 UNDP Index on Gender Inequality](#) (GII), Egypt received the 135<sup>th</sup> place out of 159 countries. In addition to the endemic phenomenon of violence against women, as the UNDP Index on Gender

Inequality demonstrates, discrimination of women in Egypt is not limited to physical or verbal violence. Women throughout Egypt are strongly discriminated throughout all levels of socio-economic participation.

Examples of such discrimination include, but are not limited to: poor access to higher education (especially in rural areas), few formal sector employment opportunities, lower salaries, and an overarching cultural bias against women's social and political empowerment. The Economic Forum's [2017 Global Gender Gap Report](#) ranks Egypt 134 out of 144 countries. This report ranks countries according to a Global Gender Gap Index, which considers indicators related to women's economic participation and opportunity, educational attainment, health and survival, and political empowerment. The same report indicates that the gender gap in Egypt has worsened since 2006 (pp. 141 f), despite the purported positive impact of the January 2011 popular uprising on liberalizing social values and facilitating more opportunities for women's participation in the public sphere. Moreover, [research published by the Cairo-based Economic Research Forum in 2015](#) demonstrates that women's empowerment is "multidimensional," comprising of economic, socio-cultural, political, psychological, *and* legal manifestations. Critically, this research proves that women's empowerment is strongly impacted by community-level attitudes and attributes that either bolster or hinder women's agency in all of the aforementioned domains.

Thus, elevating women's position in Egyptian society is not simply a matter of legal reform. Although, as suggested above, specific legal amendments could decrease the incidence of violence against women; it is critical to recognize the phenomenon of violence against women in Egypt as symptomatic of the generally diminished level of empowerment experienced by Egyptian women. In turn, addressing this issue necessitates comprehensive measures that provide women with the necessary legal and material resources required for their social ascension, *and* work towards addressing the community-level perceptions and practices that impede on women's empowerment.

This article highlighted the legal frameworks related to addressing violence against women in Egypt. We surveyed preexisting laws for their role in either perpetuating or prosecuting violence against women, and identified gaps in the legal literature that demand further legislation. The third and final installment of this series will feature testimonials from survivors of violence and women's rights experts regarding their experiences with gender-based violence in Egypt. In doing so, we hope to shed light on the various aspects that color women's experiences in Egyptian society and perpetuate the cycle of violence against women: from the law, to cultural customs, socioeconomic pressures, community constraints, and beyond.