

Submission to CEDAW for the 80th Session

Review of Egypt

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This paper has been developed by the International Service for Human Rights (ISHR) and the Tahrir Institute for Middle East Policy (TIMEP) based on information published by national and international human rights organisations.

We also refer to the private letter sent to Members of the Committee dated 3 February 2021 endorsed by 4 NGOs including ISHR regarding the list of issues and questions in relation to the combined eighth to tenth periodic reports of Egypt adopted by the pre-sessional working group on 13 November 2020.

I. Additional information and analysis of the State Party's Replies to the list of issues and questions

Stereotypes and harmful practices

1. In its list of issues, the Committee asked the State Party to “provide information on the concrete measures taken to eliminate harmful practices in the State party, [...] including **virginity testing** in line with joint general recommendation No. 31 of the Committee/general comment No. 18 of the Committee on the rights of the Child (2014) on harmful practices ([para 8](#))”. In its reply, the State Party refused to acknowledge the existence of virginity testing ([para 44](#)). This is despite the [ruling](#) by the State Administrative Court in December 2011 banning virginity tests and [reporting](#) on the continued occurrence of these tests in the years since.

Gender-based violence against women

2. On 28 April 2021, amendments to the articles banning **female genital mutilation** were published in the Official Gazette following ratification by the President. Provisions toughening the punishments for FGM [had been introduced](#) by Egypt's cabinet in January 2021 and ultimately referred to and approved by parliament. Under the changes, prison terms of between five and 20 years [may be set forth](#), depending on a number of factors, including who performed the surgery and the result of the practice on the victim.
3. The State Party has failed to provide information on progress made to adopt a **comprehensive law on combating family violence**, and has continued to rely on the

- criminal code. We consider that the State party has failed to adopt a holistic approach to the prevention and elimination of all forms of gender-based violence against women.
4. The State Party indicated in its response to the Committee's question ([9b](#)), that non-vaginal penetration is not defined as rape ([para 47](#)). We recall the Committee's recommendation to "revise the **definition of rape** to include non-vaginal penetration."
 5. The State Party stated that there is no grounds for leniency for **honour crimes** citing article 237 of the Penal Code and argued that the perpetrator may be punished by imprisonment ([para 48](#)). However, the State Party failed to accurately cite [article 237](#) which states that "he who surprises his wife committing adultery and killed her and the man she committed adultery with on the spot will be punished by 'habs' (imprisonment) rather than the penalties stated in article 234¹, 236²". In Arabic there is a difference between 'habs' and 'sejn' which in English both translate into imprisonment. Article 16 of the Penal Code defines 'sejn' as between 3 to 15 years, while Article 18 defines 'habs' as not exceeding 3 years. Thus article 237 actually reduces the sentence of imprisonment (i.e. provides grounds for leniency).
 6. The State Party announced that the "**Fairmont case**" investigation ([para 9f of list of issues](#)) was temporarily closed, and that all of the accused were released because of insufficient evidence. The State Party added that the case "could be reopened if new evidence worth looking into was presented before the statute of limitations ran out" ([para 55](#)). This demonstrates the urgency of our recommendation to the State Party to amend legislation to allow the Prosecution to investigate complaints and initiate prosecution *suo moto* and remove statutes of limitations for sexual and gender-based violence. In addition, the State Party failed to acknowledge that the prosecution of witnesses in this case under morality charges has played an undeniable role in the trajectory of the case. Several witnesses [spent weeks to months in pretrial detention](#), which contributed to a climate of fear for others to come forward with their testimonies and constituted improper reprisal for individuals who the State should have been keeping safe, rather than prosecuting or putting at further risk.
 7. The Committee had raised the "**Zaki case**" in its list of issues ([para9f](#)). In December 2020, the perpetrator was sentenced to three years for sexual harassment and in April 2021 to seven years imprisonment for sexual assault.
 8. Furthermore, **the State commits sexual and gender based violence (SGBV) systematically**³ including: threats of rape by security and military forces, rape, sexual harassment and assault, [extra-judicial killings against peaceful protestors](#), torture, enforced disappearances, virginity tests, and [forced genital examinations](#) for transgender women. **Impunity for these violations is widespread**, despite legal and constitutional protections.

¹ Article 234's penalty is life imprisonment or aggravated imprisonment.

² Article 236's penalty is hard labour or imprisonment between 3 to 7 years.

³ See FIDH, [Sexual Violence by Security Forces in Egypt](#) (2015); Amnesty International, Egypt: '[Circles of Hell](#)' domestic, public and state violence against women in Egypt (2015)

9. Responding to the Committee's question on **detention conditions including for transgender women** ([para 19](#)), the State Party has refused to acknowledge ([para 100-101](#)) the inhumane [detention conditions of female prisoners](#). This is despite the numerous independent reports⁴ showing that detention conditions amount to ill-treatment. Further, we recall that transgender women are detained in male detention centres, which puts them at risk of SGBV and that legal efforts by activists to challenge this practice have failed.⁵
10. The Egyptian parliament approved harsher penalties on **sexual harassment**, upgrading it to a felony offense (from a misdemeanour) and raising the maximum sentences; these penalties [were ratified and published](#) in the Official Gazette in August 2021. Yet despite these legal developments, **non-State actors continue to commit SGBV systematically with impunity**. Of hundreds of documented cases of mass sexual assaults in protests between 2012 and 2014, only [one case](#) was prosecuted.⁶ Incidents of [sexual harassment](#) and [assault](#) are widespread. Rape, sexual harassment and assault continue and are under-reported due to legal and social barriers. Media reports [promote](#) "victim-blaming," questioning the testimonies of victims and survivors, and implying that their behaviour and dress code justifies the SGBV against them.
11. **Women in North Sinai** have been [killed](#) in shelling by "unknown sources" according to media reports. Women have also faced [arbitrary arrests](#) by the State to [pressure their husbands](#) to turn themselves in, and they have been subjected to [enforced disappearances](#). Some have later re-appeared at the Prosecution and have been charged with "joining a terrorist group." Some of these women, who don't have IDs and give birth in prison, are unable to register their children. Other women in North Sinai have [not been able to receive the pensions](#) of their disappeared relatives since authorities have not acknowledged their detention, preventing them from proving imprisonment to their relatives' employers and depriving them of their financial claims.
12. **Christian women** face additional discrimination and violence due to their religious beliefs. For example, Muslim men in North Sinai [demanded](#) that some women wear head-scarves and Christian women were [occasionally harassed](#) in the streets. In addition, reports of Christian-Muslim [intimate and sexual relations](#), and [reports](#) of religious conversion of women, have [resulted](#) in many incidents of sectarian violence.

Women human rights defenders and women social media influencers ([para 12 of list of issues](#))

13. The State Party indicated ([para 69](#)) that "on 12 January 2021, the Economic Court of Appeals of Cairo acquitted Haneen Hossam, Mawada al-Adham and three others of the

⁴ E.g. see Communications on UN Special Procedures AL EGY 16/2020 and AL EGY 12/2020.

⁵ A transgender WHRD filed a case against the Ministry of Interior demanding that it make available detention centres that respond to the gender identities of transgender persons. The court [ruled](#) that the defender had no right to file the case.

⁶ Which occurred on 8 June 2014 during the inauguration of President Abdelfattah Al-Sisi.

charge of infringing family values and principles” (“**Tik Tok**” case). However, in June 2021, they were sentenced by the Cairo Criminal Court to 10 years and 6 years in prison on human trafficking charges in a [seperate case](#). In June 2021, two other women social media influencers (“Tik Tok” case) were [sentenced](#) to five years imprisonment for violating social values.

14. The State Party refused to acknowledge the systematic violation of the rights to **freedom of expression, association and peaceful assembly, and the right to effective remedy** ([para 67-68](#)). For example, on 17 March 2021, the Criminal Court of Cairo sentenced a [woman human rights defender](#) to 18 months imprisonment on charges of “spreading false rumors about the spread of COVID-19 in the Egyptian prisons” and “the misuse of social media.”
15. We recall that the UN Working Group on Arbitrary Detention raised concerns over the [systemic problem](#) with **arbitrary detention** under the guise of countering-terrorism, which includes [women defenders](#), and women [family](#) members of [political opponents](#). The State Party has refused to implement the [repeated calls by UN Special Procedures, States at the UN Human Rights Council, and civil society](#) to end the use of terrorism charges to hold human rights defenders and civil society activists in extended pre-trial detention and the practice of adding detainees to new cases with similar charges after the legal limit for pre-trial detention has expired.
16. Furthermore, we recall that Egypt was cited in the UN Secretary-General’s [annual reprisals report of 2020](#) as one of the States committing a “**pattern**” of **reprisals and intimidation**, including for engagement with the UN Special Procedures. On 30 August 2021, a press release by the investigative judge in Case 173/2011 sent to the Egyptian media announced that he had closed the investigation and removed the travel bans and asset freezes against four human rights organisations and their staff members, [including two women human rights defenders](#). However, at least [one woman human rights defender and women’s rights organisation](#) remain under investigation, and continues to face a travel ban and asset freeze. In addition, the law governing the activities of civil society organisations restricts the right to freedom of association, as indicated by the [Special Procedures](#), and targets civil society for engaging with the UN as indicated in the UN Secretary General’s reports on reprisals.

Participation in political and public life

17. Regarding the Committee’s question ([para 13](#)) on increasing the level of representation of **women in the judiciary**, the State responded that “on International Women’s Day 2021, the President instructed that women should be appointed to the Office of the Public Prosecutor and the State Council in fulfilment of the constitutional requirement of equality and non discrimination” ([para 72](#)). However, the Public Prosecution has not offered any information on how to apply, nor has it addressed limiting applications to women working in the State Lawsuits Authority and the Administrative Prosecution (as

women graduates are still not allowed to apply for positions within the State Council in the same way as their male counterparts).

II. Recommendations to the State Party

Legislative and institutional framework

- 1.1. Ensure that women graduates are allowed to apply for positions in the **judiciary** within the State Council in the same way as their male counterparts.
- 1.2. Adopt the **draft law on violence against women** prepared by civil society and endorsed by several MPs.⁷
- 1.3. Allow the Prosecution to investigate complaints and initiate prosecution *suo moto* and remove statute of limitations **for sexual and gender-based violence**.
- 1.4. Ensure that article 17 of the Penal Code (regarding the judge's leniency) is not used to reduce sentences against doctors performing **FGM**.
- 1.5. Align the definition of **rape** in Egyptian legislation with international human rights standards, including CEDAW General Recommendation 35 on gender based violence against women.
- 1.6. Ensure access to all women seeking **sexual and reproductive health services**, including safe abortion.
- 1.7. Criminalise **family and sexual violence**, including specific provisions on marital rape.
- 1.8. Ensure that victims of **family and sexual violence** have access to legal, medical, and psychological assistance, reparation, and rehabilitation and assist them in reporting incidents.
- 1.9. Ensure that cases of **family violence** are thoroughly investigated and that perpetrators are prosecuted and, when convicted, punished with appropriate sanctions; in particular by ensuring that Article 17 of the [Penal Code](#) (regarding the judge's leniency) is not used to reduce sentences in cases of "honour crimes."
- 1.10. Ensure comprehensive legislation and policy to **protect witnesses and those who report SGBV crimes**, and ensure the effective implementation of these protection measures, including penalties for its violations by State officials and awareness-raising of the existence of these protections.

⁷ A [draft law](#) on violence against women, which was prepared by civil society organisations and endorsed by some parliament members, has been submitted but not yet discussed in parliament.

Gender-based violence against women

- 1.11. **Investigate violations by security and military forces**, including extra-judicial killings, torture, enforced disappearances, and the use of sexual violence, such as threats of rape, rape, sexual harassment, and assault, as a form of punishment to humiliate, intimidate, and extract confessions from prisoners and detainees, and provide remedy to victims and their families.
- 1.12. **Remove all barriers for women and girls to access judicial remedies**, in accordance with General Recommendation 33 on women's access to justice.
- 1.13. Ensure that **transgender women** are not detained in male detention centres.
- 1.14. Annul "**debauchery laws**" which are used to target transgender and lesbian women as well as women social media influencers.
- 1.15. Ensure that **virginity tests and forced genital examinations** are no longer administered by State and non-State actors.
- 1.16. Prevent the **continuation of stereotypes and harmful practices** in line with Articles 5 and 2(e) of the Convention and the Joint general recommendation No. 31 of the Committee and the CRC on harmful practices.
- 1.17. Ensure that **public authorities and institutions** act in conformity with obligations under Article 2(d),(f).
- 1.18. Investigate **SGBV committed by non-State actors** and provide remedy to victims, including of religious discrimination and mass sexual assaults.
- 1.19. Recognise and respond to the **patterns of mass sexual assault**, including allocation of sufficient resources to protect women, raise awareness and train medical, judicial, and police actors to address it.
- 1.20. Protect women from **SGBV online**, including raising awareness about how to report cyber-bullying and blackmail and training of police and judicial actors to avoid double-traumatisation of plaintiffs.
- 1.21. Provide **remedies** to the victims and witnesses whose identities were leaked and slandered in the media.
- 1.22. Integrate **comprehensive sexual education** at an early age to boys and girls in schools and other educational facilities, given that such education is an essential preventive measure.
- 1.23. Create mechanisms to ensure **healthy family relationships**, including legal and social accountability for family members for any bodily or non-bodily violations of girls' rights.
- 1.24. Ensure that definitions adopted in the **national strategy on violence against women** comply with CEDAW provisions and applicable international standards.
- 1.25. Create implementation and monitoring mechanisms of the **national strategy to combat FGM**.
- 1.26. Effectively **consult independent civil society organisations** and groups in the implementation, monitoring, and evaluation of the national strategy to combat violence against women.

Women human rights defenders and women social media influencers

- 1.27. Remove restrictions, amend laws, and guarantee the **rights to freedom of expression, association and peaceful assembly, public participation, and the right to defend rights.**
- 1.28. **Immediately and unconditionally release** journalists, political activists, lawyers, WHRDs, and women arrested for their online content or in connection with their work to promote and protect human rights.
- 1.29. Stop, investigate, and ensure accountability and remedy for all **acts of intimidation and reprisals** against WHRDs who cooperate or have cooperated with the United Nations, its representatives, and mechanisms in the field of human rights.
- 1.30. **Ensure the right to remedy** in line with international standards to women who have been arbitrarily arrested, physically assaulted, or tortured for their human rights work, including those who faced reprisals and intimidation for their engagement with the UN, political opinions, or online content.
- 1.31. **Implement the recommendations** of the [Committee against Torture](#) including as part of the confidential inquiry from 2017.