



المجلس القومي للمرأة
THE NATIONAL COUNCIL FOR WOMEN

Protecting Women from Violent Crimes in National Laws and Legislations





Protecting Women from Violent Crimes in National Laws and Legislations



The Agenda of Legal Protection for women from violence receives special attention and is at the forefront of the Egyptian state's plans and strategies. It has witnessed positive and remarkable progress in light of the political will supporting and promoting women's empowerment and the elimination of all forms of discrimination and violence, which does not cease to mandate all Egyptian state agencies and entities to develop and adopt legislations and adequate enforcement measures, aimed at effectively protecting women from all forms of violence, as announced by the President of the Republic in several national and international forums and the relevant strategies which are considered as the state's action plan concerning the protection of women from all forms of violence.

Human rights in their civil, political, economic, social and cultural dimensions are the cornerstone in determining the contents of the overall application of international human rights standards. In accordance with international human rights law, women's rights are closely related to the right to equality and non-discrimination, which represent one of the fundamental principles that dominates all women's civil, political, economic, social and cultural rights and occupies the forefront of all United Nations charters, foremost among which is the Universal Declaration of Human Rights, and in international and regional human rights conventions, where Article two of each of the following

- 1- The Universal Declaration of Human Rights
- 2- The International Covenant on Civil and Political Rights
- 3- The International Covenant on Economic, Social and Cultural Rights

Emphasize the principle of equality and prohibits all forms of discrimination against individuals on the basis of race, color, sex, language, religion or any other grounds of discrimination. As for the regional charters, Article 2 of the African Charter on Human and Peoples' Rights stipulated the same meaning and affirmed the principle of equal rights for all without discrimination between the sexes (men and women).

Egypt has acceded to all the aforementioned conventions, as well as other international conventions - foremost among which is the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1981 - that aims to protect women's rights and combat violence against them. Egypt is always keen to implement its international obligations arising from the international conventions related to women that it has ratified. Moreover, Egypt is also keen on submitting international reports monitoring Egypt's achievement in the advancement of women. These human rights instruments have become a law of the Egyptian state according to the text of articles (93 and 151) of the constitution.



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The Egyptian state has committed to strengthening the protection of women and ensuring her right to all kinds of protection, work is still underway towards achieving further reforms and legislative amendments to provide a comprehensive legal framework for women to be protected from all forms of violence and discrimination.

The legal protection of women emerges from the texts of the Constitution, which affirms the protection of human rights in general and the rights of women in particular, as indicated in its following articles :

- **The 2014 constitution** includes articles for citizenship and equality between Egyptian citizens and the criminalisation of discrimination, which is directly reflected on the status of Egyptian women as stipulated in the first article of the constitution that asserts that the State's system is based on citizenship.
- **Article (9)** obliges the State to ensure equal opportunities for all citizens without any discrimination. Moreover, it establishes the concepts of citizenship, tolerance and non-discrimination, and they became the objectives of education. It was stipulated that human rights classes should be taught in universities, which would create a generation that respects women's rights, and that is based on equality and real citizenship.
- **Article (11)** of the constitution stipulates that "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 take the necessary measures to ensure the appropriate representation of women in the houses of representatives, as specified by Law. The State shall also guarantee women's right of holding public and senior management posts in the State and their appointment in judicial bodies and authorities without discrimination.
The State shall protect women against all forms of violence and ensure enabling women to strike a balance between family duties and work requirements.
The State shall provide care to and protection of motherhood and childhood, female heads of families, and elderly and neediest women."
- **Article (53) defines** discrimination that is criminalised in many articles of the Constitution as discrimination based on religion, belief, sex, origin, race, color, language, disability, social class, political or geographic affiliation or any other reason



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- **Article (59) guarantees** a safe life as a right for every human being, and obliges the state to provide security and reassurance for its citizens and all those residing in its territory.
- **Article (89) prohibits** all forms of slavery, oppression, forced exploitation of human beings, sex trade, and other forms of human trafficking

It is important to shed light on the framework of Egyptian laws and legislations for this established protection as follows:

Penal Code, No. 58 of 1937 and its amendments

- Egypt's Penal Code criminalises various forms of violence, including beating, wounding, discrimination or psychological violence, including insults and affronting a person and assaulting personal rights and freedoms, which are crimes under Articles (171, 161 bis, 176, 240, 241, 242, 307, 308, and 375 of the Penal Code). These provisions apply strictly to those who commit these crimes, without discrimination between men and women.
- Articles related to harassment, rape and indecent assault have been amended in the Penal Code according to Law No. 11 of 2011, with Articles (267-268-269-269 bis - 289-306 bis)

Sexual Harassment:

Legal measures were taken during the previous years and resulted in important amendments to the penal laws, including an increase in the penalty for sexual harassment, which was issued under Law No. 50 of 2014, as the 2011 amendments did not contain explicit legislation concerning the notion of sexual harassment, and accordingly, the text of Article 306 bis (A) was amended and Article 306 bis (B) was added.

The articles related to rape, indecent assault and exposure to others were amended. Consequently, these amendments expanded the scope of criminalization of violent crimes against women and criminalized sexual harassment. This concept was defined for the first time under the law, and accordingly, the law criminalized the exposure to a female, whether by gesture, word, act or any means, including telecommunications.

The legislator reinforced the penalty if these acts were for the purpose of obtaining a sexual favor "under the name of sexual harassment". Penalties range from imprisonment for a period varying between 6 months to 5 years and a fine that can reach 50,000 Egyptian pounds. The legislator added to the cases of aggravated penalty provided for in Article 267, whoever has a functional, family or academic authority or whoever uses coercion and if the rape is



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committed by two or more persons, or one of them is carrying a weapon., Thus, aiming to expand the scope of criminalization to include the household, academic and work spheres which represents an essential step towards achieving safety for Egyptian women and girls in public and private places.

The text of the articles about sexual harassment reads as follows:

Article 306 bis (a): *“The accused shall be punished with imprisonment for a period of no less than six months and a fine of not less than three thousand pounds, and not exceeding five thousand pounds or one of these two penalties if harassed others in a public or private place or if involved by making sexual or pornographic suggestions whether by gesture, verbal, or action, by any means, including wired or wireless means of communication.*

The penalty shall be imprisonment for a period of no less than one year in prison and a fine of not less than five thousand pounds and not exceeding ten thousand pounds, and one of these two penalties if the act is repeated by the perpetrator through the stalking and pursuit of the victim. In case of recurrence, imprisonment and fine penalties shall be doubled in both their minimum and maximum forms.”.

Article 306 bis (b): *“It is considered sexual harassment if the crime referred to in Article 306 (a) of this law is committed with the intention of the perpetrator receiving from the harassed benefit of a sexual nature, and the perpetrator is punished by prison not less than a year and a fine not less than 10000 Egyptian pounds, and not to exceed 20000 Egyptian pounds or one of both punishments. And if the perpetrator is one of those referred to in the second paragraph of Article 267 of this law, or has functional authority, familial, educational, or practiced any kind of pressure on the harassed that would allow the context of committing the crime, or the crime is committed by 2 perpetrators or more, or if at least one of them had a weapon, punishment is not less than 2 years in prison and does not exceed 5 years, and punishment is not less than 20000 Egyptian pounds and does not exceed 50000 Egyptian pounds”.*

Female Genital Mutilation:

An amendment to the Penal Code was issued in 2008 to criminalise Female Genital Mutilation with legal texts, and in 2016 according to Law No. 78 of 2016, Article 242 bis was amended and reads as follows:



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“While showing due regard for Article (61) of the Penal Code and without prejudice to any harsher penalty prescribed in another law, a prison term of no less than five years and no more than seven years shall be levied against anyone who circumcises a female, namely, by partial or total removal of the external genitalia or causing injury to the genitalia without medical justification. The penalty shall be hard imprisonment if the act results in a permanent disability or if it leads to death.”

The crime was raised from a misdemeanor to a felony, and the penalty ranged from five to seven years in prison for those who practice female genital mutilation. It reaches 15 years if the case results in permanent disability or death. The importance of the amendment is highlighted in:

1. Reinforcing the penalty from detention or a fine to imprisonment (making it a felony instead of a misdemeanor).
2. Abatement of criminal proceedings became after ten years instead of three years in the articles of misdemeanors.
3. Becoming a crime liable for punishment even if it ceases at the point of commencement and is not completed.
4. Adding two aggravating circumstances to the crime (permanent disability / death of the victim).

The legislator also introduced a new crime to Article 242 bis “A”, which stated the imprisonment of anyone who seeks the circumcision of a female or a circumcision is performed pursuant to his request. The importance of that amendment is to limit the calls for conducting FGM, whether from the person who has a connection with the victim or general calls.

Article 242 (bis) reads as follows:

“A term of imprisonment of no less than one year and no more than three years shall be levied against anyone who seeks the circumcision of a female or a circumcision is performed pursuant to his request”.

The crime of sexual intercourse with a female without her consent (Rape)

Article 267 of Egypt’s Penal Code criminalises rape, and states that the maximum penalty for this crime is life imprisonment, which carries a sentence of up to 25 years or death penalty.

The penalty has been reinforced in certain cases such as:

1. The victim is below the age of 18 and therefore a minor
2. The perpetrator is one of her guardians /relatives, and is responsible for raising or caring for her, or has authority over her (practically or academically) or working as a paid servant in the employ of the victim or the employ of one of the aforementioned individuals;
3. The rape is committed by two individuals or more.



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Article 267 states:

“Whoever lies with a female without her consent shall be punished to capital punishment or life imprisonment. Where the victim has not attained eighteen years of age or the offender is from the victim’s guardians, or those in charge of rearing, observing, or having power on her, or is a paid servant to her or to the aforementioned persons, or the crime is committed by multiple offenders, Penalty shall be capital punishment.”

Indecent Assault “hatk ‘ard”

Indecent assault by force:

Article 267 of the penal code criminalises indecent assault by force, and sets the penalty to imprisonment for a maximum of 15 years. The penalty for indecent assault is increased to rigorous imprisonment if the victim is a minor (below 18 years old), or the accused is one of her relatives or responsible for her upbringing. The penalty also applies to anyone who has authority over the victim, or if he a paid servant in the employ of the victim or the employ of one of the aforementioned individuals. The penalty is life imprisonment if two of the aggravating circumstances combine.

Article 268 states:

“Whoever indecently assaults a person by force or threat, or attempts to commit such assault shall be punished with aggravated imprisonment. If the victim of the said crime has not attained complete eighteen years of age, or the perpetrator of the crime is among those prescribed in the second clause of Article 267, the term of the penalty may be extended to seven years with aggravated imprisonment, and if these two conditions combine together, the ruling shall be extended to life imprisonment”.

Indecent assault without force:

The legislator condemned any of indecent assault even without use of force, and specified that it is based on three pillars: the first is an outrageous act violating modesty; the second is the criminal intent; and the third is the age of the victim. The law has imposed a more severe punishment against the perpetrator if the victim is below 18 years old.

Article 269 states:

“Whoever indecently assaults a lad or a lass not yet attaining eighteen complete years of age, without force or threat, shall be punished with imprisonment. If he or she has not attained twelve complete years of age, or the person committing the crime is one of those specified in the second clause of Article 267, the penalty shall be no less than 7-year aggravated imprisonment”



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Kidnapping :

In 2018, Article 289 of the Egyptian Penal Code was amended to stipulate that whoever kidnaps a child without referral to fraud or coercion, shall be punished with aggravated imprisonment for a period of no less than ten years. The penalty for kidnapping with referral fraud or coercion as stated in Article 290, shall be increased, in the event that the kidnapped is a female or a child, to reach life imprisonment or death penalty as follows:

“Whoever kidnaps a person by fraud or coercion, shall be punished with aggravated imprisonment for a period of no less than ten years. If the kidnapping is accompanied by a ransom request, the penalty is aggravated imprisonment for a period of no less than 15 years and not exceeding twenty years; but if the kidnapped is a child or a female, the penalty is life imprisonment. The perpetrator of a kidnapping felony is sentenced to death if the perpetrator committed sexual assault against the kidnaped person”.

Public, non-public indecent acts:

Article 278 criminalizes indecent public acts of indecency and is punishable by imprisonment for a period not exceeding one year and a fine. Article 279 criminalizes committing any indecent act with a woman, even if it is not in public, and the penalty is imprisonment for a period of up to one year and a fine.

Abortion:

Articles 260, 261, 263, and 264 punish abortion with detention and aggravated imprisonment.

Intransigence in paying alimony:

Article 293 of the Penal Code has been amended by Law No. 6 of 2020, to confront those evading the payment of alimony or intransigence in paying the debts of alimonies. The aim of the amendment is to take care of the family, whilst also securing sources of livelihood, and to ensure a decent life is provided, as well as facilitate the performance of Nasser Bank's obligations.

The amendment to Article 293 is as follow:

- Increasing the fine from EGP 500 to EGP, 5,000 for whoever who abstain from paying alimony.
- Suspending the convicted from of access to certain services as provided by government agencies, public bodies public sector units, the public business sector, and agencies that perform public utility services, until the convicted pays the delayed alimony in his liability for the wife and the Nasser Social Bank, depending on the case. The decision determining



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these services, and the rules and procedures for their suspension and termination, shall be issued by the Minister of Justice, in agreement with the competent ministers.

- The lawsuit is filed based on a complaint from the person concerned, and if a second lawsuit for this crime is filed after the ruling against him, then his penalty will be imprisonment for a period not exceeding one year.

Article 293 states:

"Whoever is subjected to an enforceable court ruling to pay alimony to his spouse, relatives, in-laws, or custody wage, nursing wages, or dwelling and refrains from payment, despite his ability to pay, for a period of three months after being notified to pay, shall be punished with detention for a period not exceeding one year and a fine not exceeding five thousand pounds or either penalty.

No action shall be brought against him except upon a complaint or a request from the concerned party. If, after a ruling is pronounced against him, a second case is filed for this crime, his penalty shall be detention for a period not exceeding one year.

The conviction suspends the convicted person's access to services required to his professional activity provided by government agencies, public bodies, public sector units and the public business sector, and the entities that perform public utility services, until he performs what is frozen in his debt for the benefit of plaintiff, as well as Nasser Social, according to circumstances.

The victim, his private agent, his heirs, or their private agent, as well as Nasser Social Bank, may request the public prosecution or the competent court, according to the circumstances and in any case that the case was to be proven, to reconcile with the accused. Reconciliation shall result in the termination of the criminal lawsuit, and the Public Prosecution shall order the suspension of the execution of the penalty if reconciliation took place during its execution, even after the judgment has become final, and the conciliation does not have its effect if it becomes evident that the convict in his favor may have sued all or some of what was ruled in his favor, unless the accused has submitted Or the convicted person attesting to his reconciliation with the bank for the expenses, wages, and the like that he paid, and all the actual expenses incurred by him due to the failure of the convict to pay them.

In all cases, if the convict performed what was frozen in his custody or presented a guarantor acceptable to the person concerned, then the penalty shall not be executed. A determination of those services, rules and procedures for suspending and terminating them shall be issued by a decision of the Minister of Justice in agreement with the competent ministers".



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Discrimination:

On October 15th 2011, Law No. 126 of 2011 was issued amending some provisions of the Penal Code, and a new article was added to Chapter 11 of Book Two of the Penal Code No. 161 bis, which stipulated the following:

"Whoever performs an act or abstains from work that would cause discrimination between individuals or against a group of people on the basis of sex, origin, language, religion, or creed shall be punished with imprisonment and a fine of not less than thirty thousand pounds and not exceeding fifty thousand pounds or either of these two penalties. This discrimination is a waste of the principle of equal opportunities or social justice, or a disturbance of public peace.

The penalty shall be imprisonment for a period of no less than three months and a fine not less than fifty thousand pounds and not exceeding one hundred thousand pounds, or one of these two penalties if the crime referred to in the first paragraph of this article is committed by a public official, public employee, or any person charged with a public service".

Bullying:

Law No. 189 of 2020 was issued to amend some provisions of the Penal Code by adding Article 309 bis B, which developed for the first time a definition and provisions to criminalise and punish bullying.

Article 309 bis "b":

"Bullying is any show of strength or control by the offender, as well as exploitation of the weakness of the victim, or of a situation that the bully believes would offend the victim, such as gender, race, religion, physical descriptions, and health, mental, or social status, with the aim of intimidating, ridiculing or degrading them or of excluding them from a social environment.

Without prejudice to any harsher penalty prescribed in another law, the bully is punished with imprisonment for a period of no less than six months and a fine of not less than ten thousand pounds and not more than thirty thousand pounds, or one of these two penalties.

The bully is punished by imprisonment for a period of no less than six months, and a fine that is no less than LE10,000 and no more than LE30,000, or one of these two penalties

The penalty shall be imprisonment for a period of no less than a year and a fine of no less than 20,000 and not exceeding 100,000, or one of these two penalties, if the crime occurred from two or more persons, or if the perpetrator was family member, or the person responsible for his/her education or observation, or who have authority over him/her and if the two circumstances meet, the minimum penalty shall be doubled. If the perpetrators commit the crime again, the minimum and maximum punishment limits are doubled."



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Other Laws:

Forced marriage / Child marriage / Bargain marriage:

- **Article (80) of the 2014 constitution** stipulates the state's commitment to protect children under the age of eighteen from all forms of violence, abuse, mistreatment as well as commercial and sexual exploitation.
- **Article 2 of the Child Law No. 12 of 1996** amended by Law No. 126 of 2008 stipulates that a child is anyone who is below 18 years old.
- **Article (31 bis)**, added in 2008 to Law No. 143 of 1994 regarding civil status, stipulates that "A marriage contract may not be authenticated for those who have not reached the age of eighteen.
- **The Minister of Justice issued Decision No. 6927 of 2008** stating that "the marriage contract cannot be commenced or marriage approved unless the spouses are eighteen years old at the time of the contract."
- **Article 227 of the Penal Code states**, "A penalty of detention for a period not exceeding two years or a fine not exceeding three hundred pounds shall be inflicted on whoever declares before the competent authority, with the aim of evidencing that one of the spouses has reached the age legally determined for concluding a marriage contract, statements which he knows to be incorrect, or writes or submits to the court papers to that effect, once the marriage contract is concluded on the basis of these statements or papers. A penalty of detention or paying a fine not exceeding five hundred pounds shall be inflicted on any person vested with the authority to conclude a marriage contract, who contracts it, while knowing that one of its parties has not reached the age determined therefor in the law."
- **Law No. (64) of 2010 combating human trafficking Law criminalises** various cases of child marriage as one of the forms of sexual exploitation and human trafficking, when the guardian of the child delivers the child to another person, for marriage, for a specified period in exchange for a sum of money, which is called "bargain marriage."
Article 2 of the law states: "A person who commits the crime of human trafficking shall be considered one who deals in any manner in a natural person, including: the sale, offer for sale, purchase , or promise thereof; or the use, transport, delivery, harboring, reception, or receipt , whether within the country or across its national borders; if this occurred through the use of force, violence, or threat thereof; or through abduction, fraud,



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deception, abuse of power , or exploitation of a position of vulnerability or need; or through a promise to give or receive payments or benefits in exchange for obtaining the consent of a person to traffic another having control over him; or if the purpose of the transaction was exploitation in any of its forms, including: exploitation of acts of prostitution and all forms of sexual exploitation, exploitation of children in such acts and in pornography, forced labor or services, slavery or practices similar to slavery or servitude, or begging or removal of human organs, tissues or a part thereof ".

- A bill to prevent child marriage has been proposed and submitted to Parliament.

Law No.175 of 2018:

- **Law No. 175 of 2018** "Combating Information Technology Crimes" was issued as the first Egyptian legislation that addresses crimes that take place over the Internet and electronic communication sites, covering the crimes that occur against women, including harassment, stalking and violation of people's privacy.

The crime of deprivation of inheritance

- **The inheritance law, No. 77 of 1943**, was amended by Law No. 219 of 2017 by adding Article 49, which has a great impact on women.

Article 49 states:

"Without prejudice to any harsher penalty prescribed in another law, one shall be jailed for a period of no less than six months and a fine of not less than twenty thousand pounds and not exceeding one hundred thousand pounds, or one of these two penalties, whoever deliberately refuses to hand over one of the heirs his legal share of Inheritance, or withholding a bond confirming the share of an heir, or refraining from delivering that bond if requested by any of the legal heirs. In the case of recidivism, the prison sentence shall be no less than one year, and reconciliation is permissible in the crimes stipulated in this article in any case in which the case is concerned even after the judgment has become final. Each of the victim or his private attorney, his heirs or their private attorney, as well as for the accused or the convicted person or their private attorney, has to prove reconciliation in these crimes before the prosecution or the court, as the case may be. As a result of reconciliation, the criminal case shall be terminated even if it is filed by direct prosecution, and the Public Prosecution shall order the suspension of the execution of the punishment if the reconciliation takes place during its execution, and the reconciliation has no effect on the rights of the person affected by the crime."



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Data protection for victims of violent and harassment crimes

- Law No. 177 of 2020 was issued to amend some provisions of the Criminal Procedures Code by adding a new article (113 bis) stipulating that the victims' data in crimes of harassment, violence, indecency and molestation should not be disclosed, as well as Article 96 of the Child Law. This represents an adequate and positive step towards providing protection and guarantees for victims of these types of crimes stipulated in the law.

The text of Article 113 bis reads as follows:

“Investigation officers or investigation authorities must not disclose the victim’s data in any of the crimes stipulated in Chapter Four of Book Three of the Penal Code promulgated by Law No. 58 of 1937, or in any of the two articles (306 bis /a, 306 bis /b) From the same law, or in Article (96) of the Child Law promulgated by Law No. 12 of 1996, except for those concerned”.

Protecting women from human trafficking and illegal immigration

- The Egyptian Constitution of 2014 prohibits sex trafficking, forced labor and sexual exploitation of children, and the Child Law prohibits sex trafficking and forced labor of children.
- The issuance of Law No. 64 of 2010 regarding combating human trafficking, which includes the criminalisation of all forms of human trafficking and stipulates in one of its articles the creation of specialized *criminal chambers* to examine human trafficking crimes within the Courts of Appeal of the Republic.
- The issuance of Law No. 82 of 2016 regarding Illegal Immigration and Migrant Smuggling by criminalising anyone who smuggles migrants, attempts to smuggle them, mediates in the smuggling process, and reinforcing its penalty if there are women among the smuggled migrants.¹



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National Strategies

- The National Strategy to combat violence against Women includes four main pillars, namely prevention, protection, legal prosecution and interventions, which includes raising awareness of forms of violence against women and awareness of laws supporting women as well as the necessary measures to protect women from violence.
- The National Strategy to combat Female Genital Mutilation (FGM).
- The National Strategy to combat child marriage.
- The National Strategy for the Empowerment of Women 2030, which includes a specific axis for protection from all forms of violence and discrimination against women.
- The National Strategy to Combat Human Trafficking 2016-2021 and the National Strategy to Combat Illegal Migration 2016-2026.