

Table of Contents

1. Preliminary Observations	3
2. General Observations concerning the Status of Women in Egypt	7
2.1 Legal Status of Women.....	7
2.2 Economic and Social Status of Women.....	13
3. Domestic Violence.....	18
3.1 Woman Battering.....	18
3.2 Marital Rape.....	21
3.3 Crimes against Women Committed in the Name of Honour	21
Cases	22
3.4 Early Marriages.....	25
3.5 Female Genital Mutilation	26
4. Violence against Women in the Community.....	27
4.1 Rape	27
4.2 Violence against Women Migrant Workers	29
4.3 Trafficking in Women and Exploitation of Prostitution of Women.....	29
5. Violence against Women Perpetrated by the State.....	30
5.1 Shortcomings in the Legislation	31
5.2 Cases of Torture of Women.....	33
6. Violence against Women's Reproductive Rights.....	35
7. Conclusions and Recommendations	35

OMCT would like to express its gratitude to Mr Gasser Abdel-Razek from the Hisham Mubarak Law Center, Egypt, and board member of the Egyptian Organisation for Human Rights (EOHR) which is a member of the OMCT SOS Torture Network.

1. 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 complementarity which guarantees 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 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 an arbitral body 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 entering 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 which are incompatible with the object and purpose of the present 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 which are therefore unacceptable and should be reviewed and modified or withdrawn.

Egypt is also party to other international instruments relating to human rights which prohibit implicitly 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 the past years, OMCT has received many disturbing reports documenting violations of the human rights of women in Egypt. OMCT reported 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 by stating "The allegation by the World Organization 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 deals, among other forms of discrimination against women, with some 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 act. 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

In this light, 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 *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.

2. General Observations concerning the Status of Women in Egypt

2.1 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/1Rev.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 the 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 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 hereunder, it is clearly the 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 will 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 discriminative 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 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 women to file for a divorce. The old law allowed women to ask for a divorce only under specific circumstances in which she could prove mistreatment, while 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 would 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 seem 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 a 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

⁴ UN. Doc. HRI/GEN71/Rev.3.

⁵ 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, *Implementation of the International Covenant on Economic, Social and Cultural Rights*, April 2000, p. 2.

complex procedure of applying for an annulment of the marriage by 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, women cannot obtain a passport without the written consent of their husbands, who have the right to prevent them from travelling, even if they had given their consent to obtaining a passport or to previous trips. This decree is clearly contrary to article 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 in Egypt in November 2000. The Supreme Court decided that Ministry of Home Affairs had no right to refuse a woman a passport just because her husbands wanted to prevent his wife from travelling. The Court declared that everybody has the right to obtain travel documents.

However, the interesting part of the ruling is the final paragraph before the decision which states: “Bearing in mind the previous paragraphs, this does not stop the legislature from passing legislation that would regulate the 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 “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 onto their 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 in the government. They are required to obtain residence visas and work permits. They register at schools and universities as foreigners and consequently pay fees that are much higher than they would otherwise pay 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 the Decree No. 353 of 20 December 1994 promulgated by the Ministry of Education, mentioned in the government report on page 13, does solve the problem of children born to Egyptian women married to non-Egyptians.

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

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

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 be punished only by imprisonment of three to seven years instead of 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 considered to have committed adultery in the event of him having done so in the marital home; only in this case is he considered guilty and will receive a six-month imprisonment sentence. However, the wife is considered to have committed adultery if she has done so in any place, and hence she will receive a two-year imprisonment 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.

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 hereunder in more detail.

Discriminatory laws render women vulnerable to violence as they ensure their low social and economic status relative to men and their dependence on men to

provide protection and the means of survival. If women have independent means they are more able to walk away from situations of abuse. Women's low social and economical status allows for practices in the family that result in violence against women.

2.2 Economic and Social 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 provisions that facilitate the pre-natal and post-natal periods 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 women a passport just because a husband wants to prevent his wife from travelling abroad. However, as also discussed above, neither the new personal law nor the ruling 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 the governmental level have also been set up to promote full development and advancement of women. Moreover, during the past decades, numerous non-governmental women's organisations and women's rights activists have created alternative arguments to promote and protect the human rights of women in different fields and to advance their status. They make use of a wide range of approaches to achieve their goals, including the provision of services, advocacy, research, publishing and scholarship.

On the other hand, however, many reports indicate rising conservative trends which oppose women's rights, 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, the field of education, work, politics, and health care.

Moreover, women activists are also targeted by the government for their activity 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 governments control over the right of NGOs to manage their own activities, 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.

Egyptian society is one of strict class divisions, which adversely affects women in particular. It is therefore difficult to generalise on the social and cultural

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

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 surrounding 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 the 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, and 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 detrimental to women's health, will be discussed in Chapter 3 of this report.

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.

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 killings will be addressed in Chapter 3 as will female genital mutilation which should be understood in a similar context.

The image of women in the media is indicative of the values and norms 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 themselves 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 stereotyped roles of men and women promoted by 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 over 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 nationwide,

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

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

there is a significantly greater proportion of women who are illiterate; according to the World Bank, 60% among 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 olds 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 fully one-third of ten year old girls not enrolled in rural Upper Egypt.¹⁴ Reports explain the reason for these gaps as being 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 pointed out is the lack of single-sex schools that discourage traditional parents from sending their daughters to school.¹⁵

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

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.

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.

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 compared to 17,441 men.¹⁹

In fact, women's business initiatives and acumen are often constrained by their entrenchment in the domestic sphere, restrictions to their mobility, and by their lack of exposure to information about loans and training opportunities. Consequently, small, traditional, cottage industries 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 the health status also. Due to women's lower economic and social status in society, they have limited access to crucial information on health care and hygiene.

3. Domestic Violence

3.1 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

¹⁸ Ibid.

¹⁹ Ibid.

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 Manshiet Nasser, an informal settlement located ten minutes from the city of Cairo - reveals that 30% of the women questioned admit that they are to domestic violence on a daily basis; 34% on a weekly basis, where the wife is beaten at least once a week; 15% on a monthly basis and 21% occasionally.²¹ For 75% of these women, the main reason for this domestic violence is sexual. They are beaten, raped or abused for having refused their husbands. Other reasons cited spending (65%); visiting (32%); housework (25%); religion (8%); jealousy (6%) and disobedience (5%).²² 16% of the women suffered injuries necessitating hospitalisation, such as broken arms, ribs, internal bleeding and wounds in the head or arm 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%); due to fears for their husband (19%); due

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 Marlyn 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.*

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

The research-worker 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 use of force of violence against a wife, offspring or parents. However, it believes that this measure does not provide sufficient protection to women 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 law still grants women rights 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 by their church. Moreover, as

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.

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.

3.2 *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

3.3 *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

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.

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 as well 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, proceeded to pour a can of gasoline under the door, and lit it. 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, an official in the government. She was stabbed 160 times all over her body. Thurayya was

³⁰ Muhammad Sa'id, *Al Wafd, Crimes of Shame in Defense of Honour*, October 24, 1998, pp. 38-39.

³¹ *Ibid.*

³² *Three Years at Hard Labor for Man Who Murdered His Sister in Al-Gharbiyah*, *Al-Ahrrar*, 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.

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 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 'cleansed' his honour. He carried her dead body through the streets and repeated, "I have been cleansed of my shame."³⁶
- 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

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.

³⁷ *Ibid*.

³⁸ *Ibid*.

- 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 piece of metal 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 the adultery charge their sister had committed.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 murder 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 was a total of 14 murders motivated by honour.⁴⁵ Of those cases, five were motivated by mere suspicion, one case was motivated by the employment of the woman (she was a dancer), and eight were by pregnancy resulting from adultery.⁴⁶ Studies show that this type of crime is prevalent in

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.

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.

3.4 Early Marriages

The 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 secondary 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

⁴⁷ Muhammad Sa'id, 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/WHD/97.8.

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

Moreover, according to the national statistics from the Egypt Demographic and Health Survey (1996) out of a sample of 14,000 married women, of the women reporting having being beaten, 32% were beaten during pregnancy, with 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.

3.5 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 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

⁵⁰ Beijing Platform for Action, para. 274.

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

1995 showed and 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 Muslims and Christians. In Egypt, the 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 brought together to fuse, using thorns, poultices or stitching to hold them in place, and the legs are tied together for two to six weeks. The healed scar creates a hood of skin which covers the urethra and part or most of the vagina, and which acts 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.

4. Violence against Women in the Community

4.1 Rape

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](http://www.who.int/frh-whd/FGM/infopack/English/fgm_infopack.htm#Prevalence%20and%20Distribution).

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

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, the way the woman was dressed when she was raped is taken into account by judges. 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, even though they are perceived by a woman as traumatising as 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 persons previously mentioned (article 267 (2) of the Penal Code). Moreover, article 290 of the Penal Code condemns to capital punishment anyone who kidnaps and rapes a woman.

OMCT welcomes the promulgation of Law Nr 14 of 1999, mentioned in the fourth and fifth government report, which abrogates article 291 of the Penal

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.

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 lessen the disgrace for their families.⁵⁶

4.2 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 hijab, or scarves in the street in an effort to appear more "Egyptian". During 1996-1997, there were several government round-ups, house arrests, 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

4.3 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 into

⁵⁶ Muhsin Abdel-Aziz Muhammad, "Al-himayah al-gina'iyah 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.

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 voluntarily travel. They are doubly victimised by criminalisation of their activities.

5. 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 leads 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.

5.1 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

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.

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 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 somebody 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 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, inhuman treatment or punishment, arbitrary arrests and the impunity of those acts, which is 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.

5.2 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 in April 1993 and 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 been reportedly blindfolded, stripped down to her underwear, threatened with rape, whipped with a wire 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 administering electric shocks as well as stubbing cigarettes on various parts of the body, beatings with sticks, sexual abuse, rape or threats of rape.

- Nagwa Fadl Tawfeck 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 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

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.

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.

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

6. Violence against 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 the 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

7. Conclusions and Recommendations

Despite the fact that the Constitution of Egypt 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 views that in all areas of life, women suffer from discriminatory practices, due to many factors, including the persistence of a traditional male-dominated society.

OMCT is very concerned about the subordinate role of women in the family and Egyptian society. The low economic and social status of women in Egyptian society, which has a strong influence on their access to education and

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

employment, render 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, particularly literacy and employment, the disparities between the percentage of men and women are very high and that women’s access to crucial health care is very limited. Moreover, OMCT notes with concern that the difference in marriageable age for men and women in the law, that 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 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).”

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 poor *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. Moreover, OMCT would encourage the government to collect statistical data on domestic violence. Moreover, adequate information should also be provided to the victims of such violence, with regard to their right to obtain compensation.

Although OMCT welcomes the new personal law that gives women more possibilities 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 by 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 this light, OMCT would urge the government to use educational and media means to change the social perception that it is 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 shelters managed by NGOs and it should 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 lift 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 the crime.

OMCT notes with concern the adherence to traditional customs and attitudes towards women, which manifests itself, amongst other ways, in the form of violence against women. OMCT is very concerned over the existing son-preference, 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 eliminate such traditional practices which requires fundamental changes in societal attitudes and the use of legislative, educational, social and other measures, such as awareness raising campaigns so

that traditional customs and attitudes that are discriminatory towards women be gradually modified and abolished.

With regard to rape, OMCT would recommend that the laws concerning rape should provide for a broad gender definition for 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 about the accounts concerning torture of women perpetrated by State. Women are targeted in their public as well as their private roles. Women are the victims of a policy known as "hostage-taking", under which circumstances women are particularly vulnerable to rape, the threat of rape and other sexual mistreatment. Women, who are accused or detained in connection with criminal cases, are also the victims of torture and ill-treatment in police stations. When rape or another form of sexual violence constitute a method of torture, it is more likely that the victim will not complain out of fear and shame, thus leading to the negation of this violence and the impunity of the torturer. The honour of the family refers to an entire social code of behaviour imposed upon women and girls, leading to the silence of the victim-survivor.

OMCT is particularly concerned by the ongoing State of Emergency in Egypt which seems to have created a violent atmosphere 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 in the definition 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. The climate of impunity is due to the legal loopholes, the failure of the Egyptian authorities to investigate cases and charge those responsible, as well as the threats and pressure put on victims by the police and security forces to ensure that charges against them are dropped.

As such it would recommend the enactment of a law identifying torture as a specific crime which enables prosecutions 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 which is able to inquire into human rights violations committed by State agents. 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.

In general, OMCT would urge the Government of Egypt to ensure that all legislation be applied in a non-discriminatory manner and that laws which discriminate against women be abolished. OMCT recommends in particular that the problem of violence against women be legally addressed and that the law under no circumstance allow violence against women.

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 ratifies the Optional Protocol to the

Convention, enabling the Committee to receive individual communications relating to Egypt and to conduct inquiries into grave or systematic abuse of women's human rights.