

General Summary of Issues Facing Women, LGBTQI Community Members, and WHRDs in Egypt

1. Nazra for Feminist Studies is gravely concerned by the escalated targeting of Women Human Rights Defenders (WHRDs), feminists, and women activists in Egypt, who are facing arbitrary arrests¹, judicial harassment, unofficial/official travel bans, lengthy detentions, unfair trials, and sexual violence, which is greatly affecting the presence of women and WHRDs in the public sphere.
2. Sexual violence remains a serious concern, despite a number of amended laws and adopted policies, due to the lack of implementation, absence of monitoring and evaluation mechanisms, and failure to adopt further needed laws.
3. Women's political participation is at risk amidst proposed constitutional amendments that jeopardize political participation and democracy altogether, while women's constitutional rights guaranteed by the 2014 Egyptian Constitution have not all been enforced.
4. LGBTQI community members face ongoing targeting by societal and state actors, with moments of unprecedented escalation.
5. The aforementioned concerns indicate a continuously worrying human rights situation since 2014 when it comes to gender from a holistic approach, including WHRDs, sexual violence, SOGIE issues, and the political framework.

I) Backlash against WHRDs, Feminists, and Women Activists

6. Following its 2014 UPR, Egypt accepted recommendation no.245, which reads as follows:

“166.245 Fully implement its international obligations to ensure the protection of human rights defenders and other civil society actors while exercising their human rights, including the freedoms of expression, association, and assembly”

7. Throughout the past 4 years, there has been a backlash against WHRDs and women activists, jeopardizing women's presence in the public sphere.

¹ -From home, peaceful protests, or any form of assembly.

This backlash is best demonstrated in 2018, where around 77 women were subject to arbitrary arrests, and faced different violations such as enforced disappearances, physical and sexual assaults, and deprivation from medical care. Moreover, 6 WHRDs were summoned for investigation.

8. This stems from a continuum of violations against WHRDs and women activists throughout the past years in the form of official/unofficial travel bans, summons, arbitrary arrests, unfair trials, judicial harassment, and sexual violence.

A number of Egyptian WHRDs, at least 7 cases documented by Nazra for Feminist Studies, have been stopped at airports between 2015-2016 and prevented from traveling without legal grounds, in violation of article 62 of the Egyptian Constitution. They faced insults by airport staff, interrogations without the presence of a lawyer, confiscation of passports, and illegal summons².

Between 15 April and 4 May 2016, 40 cases of arrests, interrogations without arrest, temporary detention, and security searches against women were documented during peaceful protests and assemblies against the transfer of two islands³ to Saudi Arabia. Despite the release of all detained women on the background of these events, they faced violations during their detention/interrogation/search such as: physical and verbal assaults by police forces and citizens protected by the police, and sexual insults and threats⁴.

Moreover, WHRD Mahienour El- Masry has been continuously targeted by the state and was imprisoned three times between 2014-2017⁵.

In addition, 32 Nubian activists, including 2 WHRDs, are awaiting a verdict on 7 April 2019 in case 26/2017 for participating in a peaceful march on 3 September 2017⁶.

² -For further information, please go to <http://nazra.org/en/node/543>

³ -Tiran and Sanafir.

⁴ -For further information, please go to <http://nazra.org/node/500>

⁵ -On the 18th of November 2017, she was detained by the Alexandria Misdemeanor Court in a case accusing her and four others of protesting against the transfer of two islands (Tiran and Sanafir) to Saudi Arabia, insulting the president of the republic, and committing acts of thuggery, until her acquittal on 13 January 2018 by the Montazah Misdemeanor Appeals Court. Prior to that, on 31 May 2015, ElManshia Appeal Misdemeanor Court in Alexandria sentenced her with 2 other activists to 15 months in prison in the case known as ‘‘El Raml Police Station’’, which she spent in detention, and she has been previously sentenced to 6 months of imprisonment by the Manshia Misdemeanor Appeal Court in Alexandria on July 20, 2014 for participating in an unauthorized protest.

⁶ -None of them is currently detained.

The March was a peaceful one calling for Nubians’ ‘‘right of return’’ guaranteed by article 236 of the 2014 Egyptian constitution, as Nubians were forcefully displaced from their lands several times throughout the past century. The march resulted in the arrest of 24 Nubian activists from the protest (none of them were women), but the case subsequently included 8 other activists, including 2 WHRDs. By 15 November 2017, all detainees were released but the case has been referred to court and a verdict is expected on 7 April 2019.

Furthermore, on 12 May 2018, at least 10 women were arrested in Metro stations for protesting against a significant rise in ticket prices. 6 of these women were interrogated and detained on remand by the State Security Prosecution in case 718/2018⁷. While all women protestors in this case have been released, 4 of them remain on probation⁸.

9. The retrial of the Ministerial Cabinet Case (8629/2011) stands as an example of unfair trials and sentences. The case includes one detained WHRD since 2015, namely Shaimaa Ahmed Saad, who received a 5-year sentence.⁹ HRD Ahmed Douma, imprisoned since 2013, received a 15 year sentence in his retrial and was fined the equivalent of \$335,000.

10. The year 2018 witnessed a worrying practice of targeting women who speak up against sexual harassment/violence, such as Lebanese tourist Mona Al-Mazbough who received a one year suspended prison sentence and was deported from Egypt¹⁰ and WHRD Amal Fathy.

11. WHRD Amal Fathy was sentenced to two years of imprisonment in case 7991/2018 after the Maadi Misdemeanor Court of Appeals upheld the first-instance verdict on 30 December 2018, on charges of spreading false news with the intention of disrupting public peace. Prior to that, Fathy was arrested on 11 May 2018 from home and detained by the Maadi Prosecution as a reaction to a video she posted¹¹ where she criticized state's failure in protecting women from sexual harassment. The Maadi prosecution detained Fathy on remand in Case 7991/2018 until 21 June 2018. Yet, she remained in pre-trial detention in a separate case, 621/2018, by the state security prosecution¹² until 18 December 2018, when a Cairo Criminal Court ordered her conditional release. Fathy is required to visit a police station twice a week to fulfill her conditions of release in case 621/2018. She can be taken back to detention to serve the two-year sentence in case 7991/2018.

12. Conditional release on probation, where released activists are required to visit police stations¹³, is used as a punishment tactic. At least 5 WHRDs suffer from probationary measures.

⁷ -On charges of: participating in a terrorist group while knowing its intentions, participating in and inciting protest to disrupt public transportation and harm citizens' interests, and using the internet and social media to incite terrorist acts.

⁸ -Release on probation is a case of conditional release where released individuals are required to visit a certain police station for a required number of times/hours per week.

⁹ -A lifetime imprisonment was confirmed for 43, and a verdict of 10 years imprisonment was issued for 9 juvenile detainees on 25 July 2017. It is important to state that 125 others were not included in the retrial.

¹⁰ -She initially received an 8 year sentence after publishing a video where she talked about her experience with sexual harassment in Egypt.

¹¹ -on the 9th of May 2018

¹² -On charges of joining a terrorist group, and using the internet and social media with the intention of promoting ideas and beliefs calling for committing terrorist acts through spreading false news and rumors aiming to disrupt public security and harm the public interest.

¹³ -The number of visits and hours required per week vary from a case to another.

13. Transwoman feminist and LGBTQI activist, Malak Al-Kashif was arrested from home on 6 March 2019, in relation to calls for peaceful protests¹⁴. She is currently detained in solitary confinement at Tora Prison¹⁵ on charges of “aiding a terrorist organization” and “misusing social media to commit a crime punishable by law” in case 1739/2018. Al-Kashif’s physical and psychological well-being are at risk as her gender in official papers is stated as “male”. Al-Kashif was subjected to forcible anal examination in a public hospital, and verbal sexual harassment by a police officer.

II) Ongoing Targeting of Civil Society and Feminist Organizations

14. Following its 2014 UPR, Egypt accepted recommendation no.246, which reads as follows:

“166.246 Respect the free exercise of the associations defending human rights, ensure that the Egyptian legislation complies with the International Covenant on Civil and Political Rights, and guarantee the right to freedom of association”.

15. Since 2014, there has been an escalation against WHRDs/HRDs in case 173/2011, known as the NGO foreign funding case. 31 HRDs/WHRDs were banned from traveling, 10 WHRDs/HRDs and 7 organizations’ assets have been frozen on the background of the case. This is in addition to summons by the investigative judge in the case, where defendants were released on bail between 5000 to 30,000 EGP on different charges, including: establishing an entity in violation of the law, tax evasion, receiving foreign funding with the intention of harming national security. The latter could lead to life imprisonment as per article 78 of the penal code¹⁶.

16. Feminists and WHRDs have been particularly targeted in the case. A number of WHRDs were banned from traveling, including Mozn Hassan, founder and executive director of Nazra for Feminist Studies¹⁷, while Hassan and Azza Soliman, head of the board of trustees of the Center

for Egyptian Women’s Legal Assistance have had their assets frozen¹⁸. In a precedent in the case, Nazra for Feminist Studies’ assets have been frozen in January 2017, being the only association registered under the Ministry of Social Solidarity to have its assets frozen.

¹⁴ -After a train accident in Ramses Station in Cairo, which resulted in several deaths and injuries. This comes within the context of a wave of arrests by the state during February and March 2019 in relation to call for protests against the government on the background of the mentioned accident, as well as the proposed constitutional amendments mentioned below in this report.

¹⁵ -She was given 15 days of pre-trial detention by the State Security Prosecution on 19 March 2019.

¹⁶ -Amended in September 2018.

¹⁷ -Other WHRDs who are banned from traveling in the case include Azza Soliman, Head of the Board of Trustees of Center for Egyptian Women’s Legal Assistance, Hoda Abdel-Wahab, Esraa Abd-el-Fattah, Aida Seif-El-Dawla and Suzanne Fayad, co-founders of El-Nadeem Centre for the Rehabilitation of Victims of Violence and Torture.

¹⁸ - Moreover, in an unprecedented escalation in the case, Soliman has been arrested from home in December 2016, interrogated by the investigative judge, and released on the same day on bail.

III) Laws and Policies Regarding Sexual Violence

17. Egypt received about 28 recommendations in the 2014 UPR session related to violence against women alone.

18. Recommendations no. 148 and no. 153, accepted by the Egyptian government, read as follows:

“166.148 Adopt comprehensive measures to address violence against women, including a law criminalizing all forms of violence against women”

“166.153 Complete the National Strategy on Violence against Women with a clear credible implementation plan and invite the Special Rapporteur on violence against women, its causes and consequences to visit Egypt”

19. Despite the criminalization of sexual harassment in article 306 (bis) of the penal code in 2014 and the adoption of the National Strategy to Combat Violence against Women (NSVAW) by the National Council for Women (NCW) in 2015¹⁹, there remains gaps and structural problems with the state’s approach to the fight against sexual violence.

20. In addition to the NSVAW, there are four other policies concerned with different aspects of Violence against Women (VAW): the National Strategy to Combat FGM, the National Strategy to Combat Early Marriage, the National Strategy to Combat Human Trafficking, and the National Strategy for Women’s Empowerment. These strategies overlap in their goals and action plans, and are not issued by the same entity. This renders a holistic monitoring of the eradication of VAW difficult. An essential gap is the limited mandate of NCW that does not give it prerogatives to implement and oversee the implementation of NSVAW or other relevant strategies.²⁰

21. In fact, since the adoption of the NSVAW in 2015, there has not been transparent monitoring and implementation mechanisms. While there are built-in monitoring mechanisms in the strategy, they are either too vague, immeasurable, or inaccessible. The only mechanism in the strategy that would have guaranteed a degree of transparency is the publishing of periodic reports

¹⁹ - In addition to the creation of 3 gender-based violence clinics within the forensic medicine department in 2016 (in Cairo, Alexandria and Mansoura).

²⁰ -Despite the adoption of a new law (Law no.30 for the year 2018) in April 2018.

by the NCW. However, a year before the end of the strategy's mandate, the NCW has never published such reports nor has any other state agency²¹.

22. Moreover, there has been a legal stalemate since 2014, despite declaring 2017 “the year of women” by the Egyptian president, and the dire need of further laws to combat VAW, namely:

1) a unified law to combat all forms of violence against women. The current Egyptian legal system does not criminalize domestic violence, and article 267 of the penal code only recognizes vaginal penetration as rape. No such law has been adopted to date despite it being part of the NSVAW.

2) a law that guarantees survivors' and witnesses privacy, as defendants and their lawyers have the right to access police reports in cases of VAW including personal information of survivors, which leads to stalking, blackmailing, and further violence.

IV) Women's Political Participation

23. Following its 2014 UPR, Egypt accepted recommendation no. 93, which reads as follows:

“166.93 Continue the current policies for the promotion and protection of women's rights in accordance with the human rights guarantees included in the new 2014 Constitution.”

24. The 2014 Egyptian Constitution guaranteed several political rights for women, among which women's right to hold public positions, including “appointment in judicial bodies and institutions”, in article 11. However, certain judicial bodies refuse women's appointment, namely the State Council²² and the General Prosecution, where there are no women judges to date²³.

25. Furthermore, article 53 of the 2014 Constitution stipulates the creation of an independent commission to end all forms of discrimination, which has not been established to date.

26. While these constitutional rights have not been enforced, the Egyptian parliament proposed²⁴ constitutional amendments in February 2019, introducing among other things a 25% quota for

²¹ -For further information, please go to <http://nazra.org/en/node/495>.

²² -The State Commissioners Authority explained its refusal of appointment of women judges in the State Council in two different reports in 2015 and 2017 in response to cases filed by women graduates for their appointment in the State Council.

²³ -In fact, women in the judiciary in Egypt are currently only present in the state lawsuits Authority where they represent 28% and the administrative prosecution, where they represent 43% .

²⁴ -A majority of 485 from 596 parliamentarians approved the constitutional amendments and they have been sent to the constitutional and legislative committee for review before being discussed again by parliament. After

women in future parliaments in article 102 and extending the presidential term from four to six years in article 140, with a transitional clause that would allow the current president to restart his presidential terms with the amended period. While positive discrimination generally guarantees more rights for women, the suggestion of such measures among amendments that jeopardize democracy and separation of powers, might not bring women more political empowerment.

V) Crackdown on LGBTQI Community in Egypt

27. Egypt received three direct recommendations²⁵ in the 2010 UPR on SOGIE rights, which were all rejected by the Egyptian government. In the 2014 UPR, Egypt received no recommendations despite ongoing violations.

28. However, the lack of recommendations related to SOGIE issues in 2014 does not mean that the situation of the LGBTQI community members improved since Egypt last rejected the relevant recommendations in 2010. In fact, violations against LGBTQI individuals were sustained by societal and state actors throughout this period, and there were moments of unprecedented escalation against them.

29. Between 2010 and 2018, recorded violations against LGBTQI individuals included online entrapment by state and non-state actors, and sexual and physical violence in public places as well as detention places based on Nazra's assistance to LGBTQI survivors of violence, recorded testimonies, and court files.

30. Since 2017, Nazra started to record cases of transgender individuals and homosexual men's entrapment by gangs and unknown individuals from online dating applications.²⁶ Survivors of

parliament's final approval, the amendments will be sent to the president of the republic to set a date for a popular referendum within 30 days of parliament's approval.

²⁵ Recommendations R-5, R-7 and R-8 of 2010 UPR read as follows:

'R-5. Apply national legislation to individuals without discrimination based on their belonging to a religious minority or on sexual orientation'.

'R-7. "Review national legal provisions, as e.g. those criminalising habitual debauchery, which are open to abuse for persecution and intimidation of persons of minority sexual orientation or gender identity or of persons with HIV-AIDS".

'R-8. "Fully implement Article 2 of the Universal Declaration of Human Rights, which provides that Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and to recognize that sex also includes sexual orientation".

²⁶ Dating applications that were reported to be used in incidents of online entrapments are Grindr, Hornet, and tinder.

those entrapments reported being exposed to violations including blackmailing, sexual violence, robbing, and physical assaults.

31. For lack of any specific protection mechanism that enables survivors of entrapments by non-state actors to report perpetrators, all survivors we have worked with avoided taking legal action for fear of targeting when police officers know that they met the perpetrators through gay dating applications.

32. Furthermore, LGBTQI defendants have been facing serious violations inside detention places from police personnel, and cellmates. Transgender individuals who were arrested for debauchery charges reported being exposed to sexual violence and verbal harassment. Around 5 cases have reported to Nazra being exposed to sexual harassment and beatings. Based on testimonies Nazra collected, three transgender individuals in different cases reported group sexual assault. Threatening with rape was also one of the most reported violations inside detention places based on testimonies collected from transgender women and homosexual men.

33. Online entrapment²⁷ is a method that has been used systematically by the moral police to target LGBTQI individuals. During the last 8 years, more than 40 individuals were entrapped through this method by the moral police based only on Nazra's documentation. In some 15 cases of online entrapment, where screenshots of conversations between entrapped users and undercover officers were attached to police reports as evidence, prosecution's permit to record private conversation was lacking, which is a violation to the right of privacy granted by the criminal code²⁸ and the constitution²⁹.

34. The worst escalation against LGBTQI communities started in September 2017 and led to an unprecedented social backlash. The crackdown started when a number of rainbow flags were waved during a rock concert,³⁰ leading to a media campaign that used hate speech and incited violence against LGBTQI communities. This increased incidents of social violence and sparked

one of the widest waves of arrests, reaching 75 individuals through online entrapment, arrests from streets, and arrests of LGBTQI activists, in less than four months.

²⁷ Online entrapment usually starts with an undercover police officer from the moral police department luring dating application users to meet for casual sex. The police officer usually arranges an initial meeting in a public space where the targeted person is surprised with police forces arresting him/her/them.

²⁸ Check the Criminal Code of Egypt at:

https://sherloc.unodc.org/res/cld/document/criminal_code_of_egypt_english_html/Egypt_Criminal_Code_English.pdf

²⁹ Check the Egyptian Constitution at: <http://www.sis.gov.eg/Newvr/Dustor-en001.pdf>

³⁰ On 22 September, several rainbow flags were seen in a rock concert for the Lebanese rock band Mashrou' Leila. Shortly after the concert ended, pictures of the rainbow flags went viral on social media and on media.

35. A young man and woman activists were arrested by the National Security Forces in October 2017 for raising the rainbow flags in the above mentioned concert, and remained in pre-trial detention for around 90 days on charges of “joining a group founded in violation of the law for the purpose of halting the rule of law and the constitution and promoting this group’s ideas and beliefs in public” based on article 86 bis of the penal code, which reflected a significant departure from charges usually directed against LGBTQI individuals³¹, as the same articles are used against members of the Muslim Brotherhood³².

36. Out of the 70 recorded arrests during this crackdown, at least 20 individuals were arbitrarily arrested from a well-known street in downtown Cairo only for their perceived homosexuality without any arrest warrants³³.

Recommendations:

- Adopt a unified law to combat violence against women, criminalizing all forms of violence.
- Adopt transparent monitoring and implementation mechanism for the National Strategies concerned with violence against women, and provide the National Council for Women with the needed mandate to monitor state agencies and institutions’ implementation of these strategies.
- Integrate violations committed by state actors in strategies related to gender-based violence, to hold state actors accountable and ensure women’s and LGBTQI individuals safety and bodily integrity in detention places.
- Close case 173 and immediately stop the targeting of WHRDs and women activists in Egypt.
- Stop using probation as a condition of release in cases against WHRDs and peaceful women protestors and lift current probationary measures on WHRD Amal Fathy in case 621/2018 and 4 women protestors in case 718/2018.
- Immediately drop charges and stop the judicial harassment of WHRDs, including Amal Fathy, Malak Al-Kashif, and Nubian activists awaiting verdict on 7 April 2019.
- Drop charges against Ahmed Douma in the ministerial cabinet case and immediately release him.

³¹ Charges against LGBTQI individuals were limited to "inciting and habitual debauchery" from law 10/1961 on combating prostitution.

³² The state started to systematically use these charges against opposition, peaceful activists, and women human rights defenders during the last three years.

³³ Arrests from public places grew to become a consistent practice by members of the moral police, especially in areas perceived as cruising spots for LGBTQI individuals.

- Enforce women's constitutional rights, namely the creation of the commission to combat discrimination and the appointment of women in all judicial bodies.
- Stop the current process of constitutional amendments that would significantly jeopardize democracy and separation of powers.
- Effectively enforce article 57 of the constitution and article 309 bis of the criminal code and in consequence end the Moral Police practice of online entrapment of LGBTQI individuals.
- Introduce measures to prosecute non-state perpetrators of SOGIE-based sexual and physical violence, blackmailing, harassment, and online entrapment.
- Address the media's practice of hate speech and incitement of violence against LGBTQI communities by effectively enforcing article 53 of the Constitution that prohibits all forms of hate speech.