

# كسر القوالب Breaking the mold

## #Breaking\_The\_Mold Arab Civil Society Actors and their Quest to Influence Policy-Making

Case Study #1

Country **Egypt**

Keywords **Unemployment**

### Three Case Studies on Women and Feminist Mobilization in Egypt

| Mariam Mecky |

Women and feminist activism in the MENA region, and in Egypt particularly, have emerged and developed since the late 19th century (Al-Ali, 2003). Egypt has a rich history of feminist activism that has been extensively tackled in literature, such as Abu-Lughod (2010), Ahmed (1992), Al-Ali (2000), Badran (1995), Baron (1994), Hatem (1993), Mahmoud (2005), and Tadros (2016), among many others.

Since the 1980s, there has been a notable rise in the establishment of women non-governmental organizations (NGOs), in what is referred to as the wave of NGO-ization (Abdelrahman, 2004; Hatem, 1992). The Beijing 1995 and the International Conference on Population and Development (ICPD) in 1994, as major transnational networking events, were a 'catalyst' in a surge of feminist activism in this period, which witnessed the formation of various women's rights NGOs (Abouelnaga, 2015, p. 36). It must be noted though that NGOs are only one part of civil society, and not an equivalent of it (Jad, 2007). The impact of the NGO-ization process has been studied by various scholarship on the Middle East and elsewhere. Some scholars, such as Moghadam (1997), say that it reflects a vibrant and democratizing civil society in the region, while others remain critical, contending that it has a problematic impact on the feminist and women movements work in the Middle East. In this view, some argue that it results in the 'elitism' of the activism and criticize accepting foreign funding, while others note a creeping 'professionalization' of activism and its focus on identity politics (Abdelrahman, 2004; Alvarez, 2000; Jad, 2007). Nonetheless, NGOs are argued to represent a pragmatic way for activists to engage their societies in an attempt to enact social change. Despite the several challenges that NGO-ization has posed to feminist mobilization in the Middle East, NGOs are not passive recipients of funding; they can and do navigate donor agendas and implement their own (Jad, 2007). Thus, in tackling the following case studies I pay attention to how NGOs, as part of civil society, are important actors when examining civil activism around

gender issues in Egypt, particularly in relation to legal advocacy<sup>1</sup>. It is important to highlight the heterogeneity of civil society overall and the NGO scene specifically, meaning that these case studies do not approach all NGOs as homogenous entities with the same characteristics.

The 1990's witnessed the politicization of gender and women's issues; as some feminist groups started working against the structural issues that impede women's access to public domain while also working on women's rights in the domestic sphere in their discourse, contesting the public-private space divisions. This separated them from the de-politicization of women's activism during the reigns of former presidents Sadat and Nasser (Pratt, 2005). Moreover, some of the NGOs established during that time hail from political groups, encompassing an intersection between developmental or community work and political and rights activism. The rise of women's organizations at that time was not only in response to the rise of Islamist movements but also the worsening socio-economic and political conditions as well (Al-Ali, 2002, p. 5).

The beginning of the 21st century marked the governmentalization of rights activism, signified with the Egyptian government launching the quasi-governmental body the National Council for Women (NCW) in 2000 and to be led by the first lady at the time, Suzanne Mubarak (Hatem, 2016). During that time, legal advocacy was a significant strategy employed by Egyptian women and feminist civil society organizations (CSOs), such as the enactment of the 2000 khul' law, which provided access to divorce for women. While state feminism made attempts to co-opt many of these campaigns, the enactment of these laws is essentially attributed to

<sup>1</sup> It is important to note that most NGOs surveyed here in the Egyptian context deal with international donors such as the UN, and other international agencies.

the efforts of these groups. Yet, such legal mobilization campaigns were often accompanied by various social mobilization campaigns and projects; in other words, feminist and women groups did not center on legal mobilization. In such cases, the actors' goals are not necessarily legal gains but for social change (Mecky, forthcoming). In that sense, in addition to their legal mobilization, their work varied from knowledge production, awareness-raising campaigns, or development projects such as issuing ID cards or establishing shelters for survivors of gender-based violence.

This research tackles three case studies that explore feminist and women's mobilization strategies and tactics in Egypt. It makes an assessment of the extent of influence on policy-making and enacting legal changes regarding gender-based violence as well as the personal status laws. Such cases variably demonstrate how feminist and women's activism work and strategize to influence policy-makers and the extent to which such mobilization becomes most effective. The next section briefly tackles the interplay between gender activism and the state in Egypt, setting the historical background. The following sections tackle three case studies of civil society work in Egypt regarding criminalizing gender-based domestic violence, sexual harassment, and around khul', the women-initiated divorce law, as well as personal status laws overall.

## GENDER AND STATE

As a postcolonial state, consecutive regimes in Egypt altered policies and laws towards women to serve regime interests. Such changes impacted women in differing ways; some proved to be helpful, others were harmful. Gender issues have been frequently exploited by regimes since 1952, but also by allies and opposition groups for political gain. Positions on gender issues are often taken to score ideological points or to separate opposing groups from one another (Hatem, 1992, p. 240). Meanwhile, women activists struggled to shift and change these policies to their benefit. The state's relations with its international allies, along with internal divisions dictate their gender positions, and in turn "account for women activists' shifting relations to the state" (Al-Ali, 2000, p. 55).

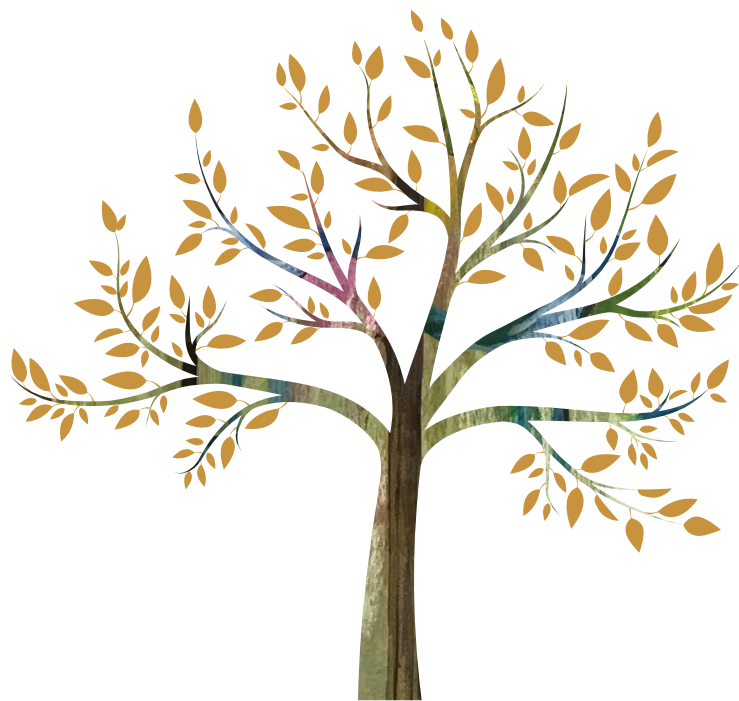
Examples of the past include Nasser's social welfare policies and Sadat's support for middle-class women who were state employees, both consistent with their larger economic policies. In 1979, Sadat<sup>2</sup> passed an emergency presidential declaration for a new personal status law that provided women with more rights in the marriage contract. It was suspended by the court in 1985 on technical grounds. After Sadat's assassination in 1981, the Mubarak regime<sup>3</sup> was particularly characterized with a retreat from state-sponsored feminism or supporting middle-class women, marked by the 1985 personal status law. That led women to organize informal, formal, autonomous and semiautonomous organizations (Hatem, 1992, p. 246). Meanwhile, resistance to women's rights persisted with the rise of Islamist groups and the

<sup>2</sup> It is important to note that the First Lady Jehan Sadat had an important role in such laws. Sadat's era marked the start of influence of first ladies. For more: Hatem, M. (2016). *First Ladies and the (Re) Definition of the Authoritarian State in Egypt*. *POMEPS Studies*, volume 19, Washington, D.C.: Project on Middle East Political Science Series, pp. 44 – 42. Available at <https://pomeps.org/07/04/2016/first-ladies-and-the-re-definition-of-the-authoritarian-state-in-egypt/>

<sup>3</sup> Mubarak's regime was often afraid of the potential mobilization of women's groups and other rights groups and thus aimed to repress them. During that time, the state worked to utilize "the woman's question" for its own political and ideological ends legitimizing it by Islamic teachings and by this, it acquired more power (Abouelnaga, 2015, p. 37; Badran, 1995, p. 228). Such utilization offered certain "opportunity spaces" for women's groups to seize and mobilize (Waylen, 1998, p. 15) that was used to push for laws as the khul' law. Nevertheless, the Mubarak regime also employed a policy of "repression and cooptation" in which the regime used the legal system to restrict their functions while managing to co-opt their work in their favor (Abdelrahman, 2004, p. 135).



state alike, becoming quite visible with Islamists in power during the reign of the ousted President Mohamed Morsi from 2012 to 2013. The rise of Islamists has led to setbacks on the gender front in mainstream public discourse, with for instance discussions around decriminalizing female genital mutilation (FGM) and the 2012 constitution not setting a minimum age for marriage, thereby explicitly condoning child marriage in mainstream state rhetoric (McVeigh, 2013). The current regime has attempted to set itself apart on women's issues from the previous Islamist regime, with certain representation of women; yet, overall, women have fared little better (EISadda, 2013; Tadros 2016).



# First Case Study

## Feminist Mobilization and Gender-Based Domestic Violence in Egypt

| Mariam Mecky |

Gender-based domestic violence has been consistently neglected in state rhetoric in Egypt in the past 10 years. Conversely, gender-based violence in the public sphere has been under the spotlight in mainstream public discourse after several high-profile and politicized incidents which occurred following the popular uprising of January 25, 2011 (Abouelnaga, 2016; Skalli, 2014). Domestic violence in general is not criminalized by Egyptian law, despite efforts since the 1990s, with the exception of FGM (Mecky, 2016). Current efforts by women's civil society form the latest step in a long and active struggle for feminist mobilization that began at the turn of the 20th century and became more visible in the aftermath of the uprising in 2011. Hence, it is particularly important to examine feminist mobilization on gender-based domestic violence in the Egyptian context amid the blatant disregard in mainstream public discourse.

In a study in the early 2000s by the Egyptian NGO Center for Egyptian Women's Legal Assistance (CEWLA), it is clear that crimes of honor are a dominant form of gender-based spousal violence in Egypt although there are few official statistics (Abdul Salam, 2005). Literature on gender-based domestic violence in Egypt is rather outdated; with few studies and articles conducted after 2011. The Economic Cost of Gender Based Violence Survey (ECGBVS) was published in June 2016 and conducted by Egypt's official statistics body the Central Agency for Public Mobilization and Statistics (CAPMAS), the NCW and the United Nations Population Fund (UNFPA). It estimates that around 46 percent of married women aged 18 to 64 in Egypt have experienced some form of spousal violence, whether physical, emotional or sexual. Moreover, it estimates that at least 18 percent of adult Egyptian women have experienced physical or sexual violence at the hands of family members or close acquaintances. In addition, per 2014 statistics from the Demographic and Health Survey, conducted every 10 years by the Egyptian Ministry of Health, one out of four married women has been subjected to physical violence at one point in their lives by their current or former husband (Mecky, 2016).

Egyptian civil society has addressed gender-based violence using various strategies, from research and advocacy, to artistic representations, support services, and drafting legislation. (Mecky, forthcoming). The 1990s were characterized by a surge of transnational conferences such as Beijing 1995 and ICPD in 1994. They shifted the focus on gender-based violence to a holistic approach in private and public spheres.<sup>4</sup> CSOs in Egypt work on legal reform to criminalize different aspects of violence against women, largely relying on rights-based approaches. Moreover, groups addressing gender-based domestic violence often focus on providing services to survivors, be it legal or psychological support, as well as advocating for criminalization (Mecky, 2016). In their work, they predominantly focus on violence against women and girls.<sup>5</sup>

### CIVIL SOCIETY ACTORS

The dominant forms of work around gender-based domestic violence arise from NGO activism and the work of quasi-governmental bodies. Interventions encompass varying tactics from working with state actors to campaigning in traditional media and online, through social media.<sup>6</sup> This advocacy is often formalized through paid employment in organizations or entities<sup>7</sup> (Ibid.). Legal advocacy includes building coalitions and alliances, lobbying through conferences and engaging with different governmental entities. However, such engagement is governed by several factors, such as political circumstances, political beliefs and the government willingness to engage with civil society actors. In the past ten years, the main civil society actors involved in advocating for a law criminalizing gender-based domestic violence are NGOs, which identify as feminist, women's rights and rights-based, in addition to the NCW.<sup>8</sup>

Regarding the role of NGOs, the NGO actors started drafting a bill and used that to launch a community dialogue and a working relationship with the concerned governmental entities. El-Nadeem Center for Rehabilitation of Victims of Violence<sup>9</sup>, an NGO established in 1993 whose mission is to work against all forms of violence, was a pioneer in working on criminalizing domestic violence (Mecky, forthcoming). In 2005, El-Nadeem drafted a bill to criminalize domestic violence against women, using that as a basis for advocacy. It reached a stalemate after the uprising in 2011 as a result of the dissolution of parliament.<sup>10</sup><sup>11</sup> The bill was not well received by parliament; it was put aside to the Parliamentary Committee of Proposals and Complaints in 2010 (Kamal, 2018). This is an indication of the lack of state approval, extended well into the consecutive governments following 2011.

Currently, the New Women Foundation (NWF), a feminist NGO founded in 1984, is leading an NGO taskforce of seven groups<sup>12</sup> in talks with an MP to submit a bill to the current parliament.<sup>13</sup> This NGO taskforce drafted and is advocating for a unified

6 Interview with Mecky, 2018; Interview with Mecky, 2019

7 Ibid.

8 Interview with Mecky, 2018; Interview with Mecky, 2019

9 The El-Nadeem Center provides psychological and legal services to victims of violence, predominantly torture or gender-based violence, whether public or domestic.

10 The 2010 bill was under discussion in the Parliamentary Committee on Proposals and Complaints but the parliament was dissolved, and it was therefore stuck in limbo (Mecky, 2016; Nazra for Feminist Studies, 2012). El-Nadeem attempted to resubmit the draft again in 2012; however, the bill moved no further (Egypt Independent, 2012). El-Nadeem used several strategies, from community dialogue to working with the state. In 2008, after holding community dialogues, it presented the bill to the parliament; it received no response, but it resubmitted in 2010 to a new parliament and was referred to the committee to review proposals. Per the summary of the bill, it adopts a human rights approach arguing that this bill is necessary to eliminate gender discrimination in the culture and law and that it needs to be a social issue, rather than a private issue, as a violation of human rights. The statement also asserts that it has been informed by the Egyptian legal framework including penal code and family law definitions as well as international conventions. There is no religious reference (El Nadeem, 2012). At the moment, El-Nadeem put its bill on hold, yet it is working in a taskforce to push for a comprehensive bill (Interview with Mecky, 2018).

11 Interview with Mecky, 2018

12 The taskforce includes six other NGOs with NWF, namely: El Nadeem Center for Rehabilitation of Victims of Violence, Center for Egyptian Women's Legal Assistance (CEWLA), Appropriate Communication Techniques for Development Association (ACT), The Egyptian Female Lawyers Initiative, Tadwein and the Cairo Center for Development.

13 Interview with Mecky, 2018

4 Ibid.

5 Interview with Mecky, 2018

law to combat violence against women; working with relevant government actors, lobbying through press conferences and having each member NGO use social media activism during key international events, such as the UN 16 days of activism against gender-based violence. In November 2018, this coalition held a press conference in collaboration with MP Nadia Henry to announce and publicize their bill (press conference with MP Nadia Henry and violence against women law, 2018).

Nada Nashaat, from CEWLA, talked about the holistic approach of the law, saying, "In the draft law, the perpetrator is not necessarily the husband, it could be the husband, brother, father or a guardian. Forms of violence include sexual violence and psychological violence... We need to be sensitive to have both a social and psychological response for survivors of incest and rape."<sup>14</sup>

This bill comprehensively criminalizes all forms of domestic violence, including marital rape.<sup>15</sup> The approach to the law is that even though protection is certainly part of the law, it is not a central tenet of it. El-Nadeem Center's bill takes a different approach than simply punitive by introducing a philosophy of rehabilitation, citing the example of the potential of violence in prison.<sup>16</sup> Members of the taskforce, Nashaat and Nevine Ebeid, coordinators of the taskforce from NWF, highlighted that the bill encompasses "four advantages: definition is broadened as per international conventions to include protection, prevention, and shelter condition".<sup>17</sup> These civil society actors employ advocacy campaigns through dialogues with specific state actors, lobbying, and social media campaigns in parallel with their other activities as working with international actors and providing support services. In this process they frame their work within international conventions and human rights discourse. In their legal advocacy for the draft laws they often use traditional and social media, depending on availability and resources<sup>18</sup>. They may also take part in governmental initiatives such as the committee to form the violence against women (VAW) strategy, but it rather depends on the state willingness to collaborate and the possibility of yielding effective results.

Meanwhile, the quasi-governmental body NCW has been working on a comprehensive law to combat all forms of violence against women since 2013, before the presidency of El-Sisi.<sup>19</sup> In June 2013, the NCW submitted the bill to combat violence against women to the Cabinet without holding any consultations with NGOs; after the removal of Morsi from power in early July, the bill was stalled (Kirolos, 2016, p. 59). In 2018, the bill was resubmitted to the Cabinet after consultations with concerned organizations.<sup>20</sup> It has been going back and forth from Cabinet to the State Council for comments, according to Dina Hussein, a member of NCW, head of the youth committee, and member of the legislative committee in the NCW. This bill has not been submitted to the current parliament yet. In parallel, the NCW is working on the Cabinet strategy in collaboration with the different ministries.<sup>21</sup> The NCW tends to center working with the Cabinet as a focal point in their advocacy.

On the government's side, the Egyptian Cabinet announced a national strategy to combat violence against women in 2015 following a public statement by El-Sisi (National Council for

Women, n.d.). However, it has not been implemented yet nor enacted into a formal law.<sup>22</sup> In addition, several specialized NGOs, such as CEWLA, were not invited.<sup>23</sup> Others, such as NWF, despite currently working with MPs, withdrew from the collaboration with the general strategy of violence against women by NCW due to problems in drafting and work mechanisms, and following the police shooting that caused the death of activist Shaimaa El-Sabagh.<sup>24</sup>

## CIVIL SOCIETY AND STATE

Hence, there seems to be a cyclical and dynamic relation between civil society actors and the state, where forms of activism have developed yet did not transform these actors. By and large, the tactics and strategies shifted predominantly based on constraints and opportunities permitted by the political scene and guiding space for collaboration and public activism.

El-Nadeem<sup>25</sup>, for instance, based on the political changes and current government actions, shifted their strategy away from leading a community dialogue and pushing for their bill in parliament. Despite being one of the pioneer NGOs to work on a law against gender-based domestic violence since 2005, it does not currently engage with the legal framework or any state agents out of the belief that there is an absence of political will and a passive parliament. However, it provides support for organizations that do so, while continuing its support services.<sup>26</sup>

The period after 2011 was characterized by extreme fluidity and instability, which has impacted the work of civil society. The year 2011 constituted a transformative moment for work around gender and its production overall (Abouelnaga, 2016; Al-Ali, 2012; Hafez, 2014). While there has been mobilization around gender-based violence in the public sphere, gender-based spousal violence, however, has been neglected in state rhetoric and mainstream public discourse at large. The state neither acknowledges nor repudiates gender-based domestic violence, stating that it is a private, isolated matter (Abouelnaga, 2015, p. 39). Eloquently contesting the patriarchal private-public binaries, Abouelnaga (2015) said the state and the body politic at large, relied on the control and policing of women's bodies in the private sphere, as such "violations are not only considered to be private, but also legitimate according to a specific interpretation of Islam and a strong patriarchal patronization" (Ibid.). Women's groups had started challenging these ideas in the 1990s by tackling taboo matters such as FGM, leading to its criminalization in 2008.<sup>27</sup>

This has intensified after 2011 as many young activists often recount how the revolutionary moment in 2011 paved the way for a new consciousness and momentum of hope for the feminist movement (Mecky, forthcoming), challenging the idea that the female bodies is a "symbol of the personal" (Abouelnaga, 2015, p.45). They have emphasized how much of a turning point their experiences of 2011 were; for their mindsets and their activism in which women's and feminist activism was at the center of the revolutionary moment (Mecky, forthcoming).

22 The policy has been criticized by some groups for the lack of monitoring mechanisms (Nazra For Feminist Studies, 2017).

23 Interview with Mecky, 2018

24 Ibid.

25 El-Nadeem founders are accused in the case 173 of 2011 brought by the government (Amnesty International, 2016), in which organizations are accused of receiving illegal foreign funding that resulted in the asset freeze, travel bans and shut down of several rights organizations and activists in Egypt in 2016. The El-Nadeem office was also shut down by the authorities on the claim of a licensing breach (Michaelson, 2018).

26 Interview with Mecky, 2018

27 Interview with Mecky, 2018

14 Interview with Mecky, 2018

15 Ibid.

16 Ibid.

17 Ibid.

18 Ibid.

19 Interview with Mecky, 2019

20 Interview with Mecky, 2019

21 Interview with Mecky, 2019

The perspectives and strategies of women and feminist civil society actors changed largely as a result of intense state violence since 2011, lessons learned as well as obstacles presented due to current regime policies. On the current environment for NGOs operation such as limiting and curbing of foreign funding, NGOs have had to prioritize their work pending on their priorities, security risk and according to their available resources, that has already been limited.<sup>28</sup>

As of May 2019, gender-based domestic violence has still not been criminalized in Egyptian law. Hence, this case shows how civil society actors strategize and navigate mobilization around an issue both normalized and neglected in Egyptian mainstream discourse and ignored within the legal framework. Nonetheless, 2011 paved the way to consolidate a narrative among women and feminist NGOs that prioritizes gender-based violence in both private and public spheres, thus challenging the mainstream rhetoric by contesting the public-private binaries of women's bodies and rejecting manifestations of patriarchal violence.



## Second Case Study

### Civil Society and Criminalizing Sexual Harassment in Egypt

| Mariam Mecky |

Sexual harassment and sexual violence in the public sphere overall have a heightened significance in the Egyptian context. Sexual harassment has been a rampant issue with official and unofficial statistics statements that estimate that 99 percent of Egyptian women have encountered harassment at least once in their life (Roushdy, 2016). Despite the fact that sexual violence against women in the public sphere has existed in Egypt for a long time, noticeably with the mob sexual assault against female protestors in 2006, it has become more visible after 2011 in the mainstream public discourse (Abouelnaga, 2016; Al-Ali, 2012; Hafez, 2014; Roushdy, 2016; Skalli, 2014; Tadros, 2014). The period after 2011 was also characterized with mobilization around gender-based violence in the public sphere (Al-Ali, 2013), a result of the political dynamics at the time of heightened politically motivated sexual violence cases that have been growing in number. From 2012 to 2014, over 500 cases of mob sexual assaults were documented (FIDH et al., 2014).

#### CIVIL SOCIETY ACTORS

The 2000s marked the beginning of civil society interventions around sexual harassment, which grew after 2011 given the general environment of mobilization and the increase in public attacks (Skalli, 2014). It started off with women NGOs working on the issue. In 2005, the Egyptian Center for Women's Rights (ECWR), an NGO founded in 1996, launched the first campaign against street harassment (Abdelmonem, 2015) after producing two pioneer studies on sexual harassment in 2005 and 2008. Their advocacy included raising awareness through events and calling for a law countering sexual harassment. The period of the mid-2000s marked the employment of politically motivated sexual harassment and assault, most notably the incident widely known as "Black Wednesday" in 2005 (FIDH et al., 2014).<sup>29</sup> In 2008, after the first verdict in a sexual harassment case<sup>30</sup>, 16 Egyptian groups launched a "taskforce" against sexual harassment in which ECWR participated (Abdelmonem, 2015, p. 34). Expanding in 2010 to 23 NGOs, the taskforce suggested a comprehensive bill that would define sexual harassment for the first time by law, attempting to codify verdicts (Kirolos, 2016, p. 55). Although this verdict was a milestone, the perpetrator was not sentenced for sexual harassment; per the Egyptian penal code's existing sexual offences, he was found guilty of indecent assault (Roushdy, 2016, p. 5). The taskforce's draft law encompassed "an integrated, rights-based approach to protect against all forms of sexual violence without discrimination" (EIPR, 2010 as cited in Kirolos, 2016, p. 55). In their attempt, they were involved to push the state to comply with international conventions enshrined in CEDAW (Abdelmonem, 2015). On January 16, 2011, the Egyptian Cabinet approved certain insufficient penal code amendments, without consulting with civil society. However, on January 25, the uprising erupted in Egypt against the Mubarak regime and the bill entered into a period of limbo.

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<sup>29</sup> During a protest calling for the boycott of a constitutional reform referendum, Egyptian security forces opened the way for groups of men to assault female journalists participating in the protest; in an incident referred to as Black Wednesday (FIDH et al., 2014).

<sup>30</sup> Noha Roshdy won the first sexual harassment case to be tried in the Egyptian court system in 2008 on the basis of Article 306 of the penal code (Abdelmonem, 2015).

In the past 10 years, civil society interventions around sexual harassment developed to encompass a variety of strategies and types of involvement; from professionalized NGOs and quasi-governmental bodies that include formal employees and paid workers, to volunteer-based initiatives and informal groups. The main actors of civil society around sexual harassment have been feminists and women NGOs and initiatives at large, and with the developments around sexual harassment after 2011, NCW has worked on providing services and legal advocacy (Interview with Mecky, 2019).

Prior to that, from 2005 to 2010, women and feminist NGOs' work addressing sexual harassment had revolved around advocating for laws and policies and raising awareness, albeit there have been some interventions that used workshops, trainings and events employing art and music (Abdelmonem & Galan, 2017, p.155). Volunteer-based work and initiatives developed and became particularly visible after 2011, expanding to Cairo and other governorates. Post-2011, anti-sexual harassment interventions and initiatives are argued to reflect "an independent social movement numbering many hundreds, if not thousands, of young women and men who have chosen to stand up to violence using extremely diverse methods and tools" (Abd Alhamid & Zaki, 2014). Quoting Dalia Abd Alhamid, who works with the Egyptian Initiative for Personal Rights (EIPR), Abdelmonem & Galan (2017) talked about the change after the revolutionary moment as activism around sexual harassment expanded from "small-scale workshops, reports, documentation" that reached few people (p.155), to more effective measures reaching a larger public. For instance, several initiatives focus on action-oriented responses such as HarassMap, founded in 2010, using online channels to encourage bystanders to intervene in cases of harassment, and WenDo, established in 2013 to help women defend themselves (Abdelmonem & Galan, 2017). In short, civil society interventions used diverse tools that embrace social and legal mobilization, including holding conferences or concerts, producing knowledge through research and disseminating online, reporting and documentation, providing support services, working with government actors, forming coalitions, and holding sit-ins in the period of 2011 to 2013. This demonstrates the wide spectrum of activism against sexual harassment that led to pushing sexual harassment into the mainstream public discourse in Egypt, exerting more pressure on the state. Nonetheless, by 2018 many of these activities have declined as it now depends on the ability to obtain permits and funding, which typically was sourced from foreign donors, such as international and inter-governmental organizations and entities.

In June 2014, then-interim President Adly Mansour amended the law, criminalizing sexual harassment and defining it for the first time in the Egyptian legal framework (Ahram Online, 2014). This was after the NCW submitted a bill to the government in early 2014 (Interview with Mecky, 2019). Egyptian law now defines sexual harassment, Article 306 (a) of the penal code, as "making forward actions, insinuations or hints that are sexual or pornographic whether by signals, words or action and by any means including wired and wireless communication methods" (Harassmap, n.d.). The criminalization came only a few days after viral sexual violence incidents taking place with the celebration of President El-Sisi's inauguration as the new president. In August 2018, for the first time, Egypt's Al-Azhar Institution reiterated the law four years later saying that sexual harassment was prohibited in Islam and cannot be justified under any circumstance (Ahram Online, 2018). It must

be noted, however, that religious rhetoric was hardly employed in mobilization against sexual harassment leading up to its criminalization in 2014.

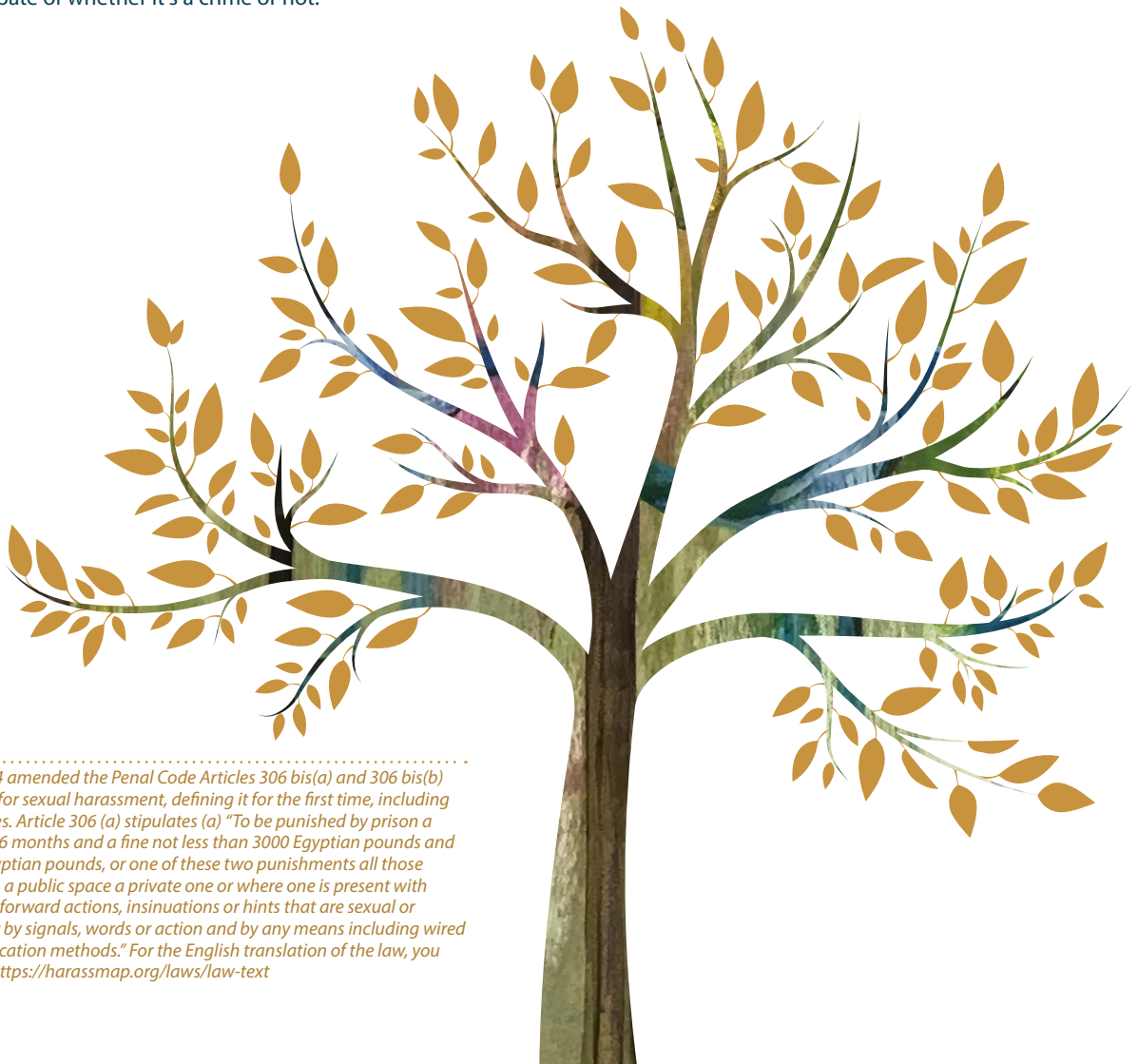
Criminalization of sexual harassment is considered by many as a culmination of over a decade of tremendous advocacy efforts and collective actions by Egyptian women's organizations (Tadros, 2014). Moreover, work against sexual harassment has become more mainstream, as there are now units that work against harassment in Egyptian universities, from Cairo and Ain Shams Universities to Beni Suef, Menofia and Helwan Universities (UNFPA, 2018). There is also a unit in the Ministry of Interior, established in 2013, that combats violence against women (Ibid.).<sup>31</sup>

However, NGOs had some criticism of the new amendment for restricting the definition of sexual harassment to its sexual or pornographic nature, as well as to the procedural limitations of the law (Abdelmonem, 2015). While criminalization represents a milestone, there is a long way to go in policy-making. In its 2017 report on Egypt, Human Rights Watch states that sexual harassment and violence against women is rampant, and prosecution of perpetrators remains "rare" (Human Rights Watch, 2018). Nevertheless, some NGOs are aware of its pitfalls, in the words of Nashaat from CEWLA:

"Criminalization will not affect the social acceptability immediately, there would be immense resistance however when you put it in law, slowly and slowly it would be a crime as sexual harassment. Experience shows people haven't changed much yet they know it's a crime and the moment they realize you are going to send him to the police station, thousands would ask you to spare him and if you were able to file a case, he will be in jail.. the good step is to say that's violence, to open discussions on it, yet we would have concluded the debate of whether it's a crime or not."

The fluctuating political situation has impacted civil society actors and interventions involved on this issue, resulting in different modes of operation and strategies pending on the political opportunities and public space, similar to the case of gender-based domestic violence. The multiple consecutive parliaments and political actors hindered any progress. The main difference setting apart the mobilization around sexual harassment and violence from domestic violence is how political circumstances prompted and aided several modes of organizing to emerge and develop. The post-2011 uprising period is argued to represent a transformative phase with the increased visibility of sexual harassment in the public sphere whether by state or non-state actors, and thereby intensified calls for criminalization. Such transformation aided civil society interventions to gain momentum and raise awareness bottom-up while also maintaining a top-down approach of the law. This in turn increased the visibility of mobilization around sexual harassment and violence, contributing to mainstream public discourse and thereby exerting pressure on the government, both locally and internationally.

This case study demonstrates a rather successful case of major advocacy and influencing the policy-making process; yet it highlights how the political climate plays a major role; whether facilitating mobilization post-2011 or hindering progress in times of instability or restrictions. Tactics and strategies shifted predominantly based on the developments in the political scene and public activism and engagement with the government. Civil society interventions employed different strategies and tactics to advance their demands, from advocacy campaigns, to social media, governmental dialogues, and raising awareness. It also showcased the importance of a grassroots work in relation to influencing policy-making. Despite the current setbacks in the political activism scene and crackdowns on organizations, civil society actors continue to work against sexual harassment.



<sup>31</sup> Law No. 50 of 2014 amended the Penal Code Articles 306 bis(a) and 306 bis(b) to introduce penalties for sexual harassment, defining it for the first time, including imprisonment and fines. Article 306 (a) stipulates (a) "To be punished by prison a duration not less than 6 months and a fine not less than 3000 Egyptian pounds and not to exceed 5000 Egyptian pounds, or one of these two punishments all those who confront others in a public space a private one or where one is present with permission by making forward actions, insinuations or hints that are sexual or pornographic whether by signals, words or action and by any means including wired and wireless communication methods." For the English translation of the law, you can access this page: <https://harassmap.org/laws/law-text>

## Third Case Study

### Mobilization around Khul' Law & Personal Status Law

| Mariam Mecky |

The enactment of the khul' law, allowing women to initiate no-fault divorce, is considered a milestone in the work of the Egyptian feminist and women's movement. Its significance is attributed to the fact that it provided, for the first time, women in Egypt the right to unilaterally petition the court for divorce (Singerman 2005). Previously, to seek divorce in court, wives had to endure a long, expensive and debilitating process, as they had to prove to court that they experienced "excessive harm" (Singerman 2005; Zaki, 2017). The khul' law gave women the right to divorce by court, through a procedure where she states the impossibility of the marriage to continue with no need to prove harm, and the judge is obliged to issue the divorce (Singerman 2005, Welchman, 2011; Zaki, 2017).

Egyptian family laws have been codified since the 1920s with slight amendments up to the current 1985 law. Former President Anwar El-Sadat attempted to change the law in 1979 by an emergency presidential decree in the absence of the parliament. His 1979 law was considered a milestone with major gains for women as it banned polygamy and granted women access to divorce. After Sadat's assassination in 1981, the personal status law was challenged in court on the grounds that it is not compliant with Islamic Shari'a. In 1985, the court suspended Sadat's 1979 personal status law on the grounds that it was not technically an emergency. A new law was passed during the same year which highlighted the extent of the state's retreat from advancing women's issues. The state decided instead to incorporate the conservative views of judges to dilute minor gains given to women by the 1979 law (Hatem, 1992; p. 245). The Mubarak regime often avoided amendments in family laws (Zaki, 2017; p. 10, 11); this made the khul' law passage a particularly insightful case in mobilization.

#### CIVIL SOCIETY ACTORS

Personal status laws have been a focal area of advocacy for feminist activism in Egypt. CSOs have used several strategies in attempting to influence policy-making and legislation regarding personal status laws. It often relies on different interpretations and readings of Islamic Shari'a as well as drawing on the state's commitment to international conventions related to gender. The group of activists involved in the khul' campaign named their initiative "The Communication Group for the Enhancement of the Status of Women in Egypt" yet was widely known as 'the group of seven' as it included seven prominent female lawyers and scholars of Islamic history and law (Zaki, 2017; p. 10, 11). This small group of women activists managed to pass a new law of 1/2000, famously dubbed the khul' law, which gives women the right to unilaterally petition the court for divorce for the first time (Singerman 2005; Welchman, 2011).

In the campaign of the khul' law that lasted for more than a decade and a half, civil society relied on a "hermeneutical" reading, or reinterpretation, of Islamic historical sources and legal mobilization in their lobbying (Zaki, 2017; p. 10, 11). Women advocates employed several strategies, from drawing on progressive interpretations of Islamic norms on family laws, to relying on international women's rights conventions, and making use of Egypt's dualistic and pluralistic family law and its notions of rights for women (Ibid., p. 21). In other words, in their lobbying and advocacy to amend the laws in women's access to divorce, they relied on challenging the limited interpretation in the Egyptian laws as well as drawing on the state's commitment to international

conventions related to gender (Singerman, 2005; Zaki, 2017). This process was referred to as "a novel rights formulation" (Zaki, 2017, p.21). The activists framed their efforts largely within the framework of Islamic Shari'a instead of secular human rights or international conventions (Ibid., p. 15). Within that process, these women challenged the religious establishment as well as the state. Yet they also managed to forge strategic alliances within the state and the religious elite near the last stage of campaigning (Ibid.). Religious legitimacy and related arguments aided feminists as well as Al-Azhar male and female scholars, who took part in defending the bill in parliament in 2000, and also later after 2011 when the Muslim Brotherhood affiliated MPs attacked it (Hatem, 2016; p. 43).

This campaign centered on structured advocacy relying on coalitions, as well as working with some judicial authorities. The women's group lobbied several senior judges at the Ministry of Justice – one of them later becoming the Minister of Justice – and also working with religious authorities at Al-Azhar, while lobbying the leadership to influence the Al-Azhar official stance as the main Sunni religious institution and a critical state institution in Egypt (Zaki, 2017). This law specifically prompted a divide on the religious current between political leadership and religious leadership (Ibid.). Personal status laws, unlike issues such as gender-based violence which is focused on the penal code, included talks with a number of religious actors. This sets apart mobilization around the personal status laws, where Al-Azhar has formal authority, from other issues of gender mobilization as gender-based violence.

In January 2000, the bill was presented to the Egyptian Parliament and approved shortly after, which signifies the successful culmination of the campaign. This came as the Mubarak regime finally threw its support behind the draft law, most likely for "saving face" face-lifting in front of the international community. This represented the campaign's transformative moment. Regime support allowed the first lady, Suzanne Mubarak, to re-enforce her role "as the guardian of women's rights" (Zaki 2017, p. 18). All in all, women's strong lobbying around that moment gained support from the Minister of Justice, the Grand Imam of Al-Azhar and the Grand Mufti of Egypt, as well as other state actors (Singerman 2005; Zaki, 2017). In that sense, civil society advocates utilized a one-time opportunity to push multiple agencies of government.

The passage of this law, however, is often falsely attributed to the former first lady, as she took credit for supporting it in parliament at the time. That shows how the Mubarak regime sidelined women activists' efforts in introducing critical reforms. Later on, in the first lady's role was used in the opposite way to discredit the law, particularly after the 2011 uprising, by referring to it as part of Suzanne's laws (Hatem, 2016; p. 43). Although women activists were not considered as overt opposition to the regime, the Mubarak's regime still worked to co-opt their efforts.

This mobilization case shows how the campaign was able to work around an authoritarian state and religious claims of cultural authenticity for exclusive male rights to divorce. They won a victory with the khul' amendment to a rarely touched law. It is argued that the framing chosen by those women activists was essential to their success. As Merry (2006) states, as cited in Zaki (2017), "The success of the specific framing efforts of women's rights advocates in eliciting both normative and institutional reforms speaks to the malleable and dynamic nature of even the most seemingly

oppressive and entrenched culture traditions” (p. 22). The activists managed to challenge dominant religious interpretations around access to divorce in Egypt, not by using secular or international norms, but rather by promoting a re-interpretation drawn from within Islamic Shari’a. The law was framed as derived from within the Islamic tradition in the way that it urges court proceedings for divorce to decrease women’s suffering (Welchman, 2011, p. 434).

The nature of the Egyptian legal framework can be argued to have played a role in aiding feminist engagement and mobilization, where dual secular and religious aspects of the law are a doubled-edged sword for feminist activists. Zaki (2017) contends that this dual identity of the legal system facilitated different interpretations of Shari’a and negotiation of different legal orders, thus assisting the activists’ campaign to reform divorce laws and enact the khul’, sometimes called the ‘no fault divorce law’, in Egypt in 2000. Legal frameworks in Egypt, and in the Middle East in general, are often characterized with legal plurality as a result of post-colonial state formation, with only few exceptions, such as Iran. For instance, the family law in many countries is dualistic as it is derived from both civil codes, predominantly the French one, as well as Islamic Shari’a (Abu-Odeh, 2004b; Sonneveld, 2012; Welchman, 2010; Zaki, 2017).<sup>32</sup> In that vein, the hybridity and plurality of the legal system offer space for change, and as such feminist and women groups capitalize on it.

Since the ratification of khul’, several CSOs have worked and lobbied for an entirely new personal status law that adequately incorporates gender equality in terms of the marriage contract and child custody. CEWLA has worked on a draft bill for a personal status law since 2001 following the enactment of the khul’ law.<sup>33</sup> They finalized the bill after community dialogues and talks with other CSOs, lawyers, religious authorities from Al-Azhar and the Coptic Church. They also conducted extensive community discussions in several governorates and incorporated the findings from many problematic personal status cases brought to them by women who were victims of the old law.<sup>34</sup>

The bill had two hearings in the legislative committee in the current parliament, but has not yet been presented in the general session as it still goes back and forth to the NGO with reservations and amendments. In order to lobby for their bill, CEWLA used networking and meetings with MPs, sometimes one on one. This bill was submitted not in relation to CEWLA but adopted officially by the female MP Abla Al Hawary, who is a member of legislative committee. Regarding advocacy around the bill, instead of holding community dialogues because of recent restrictions on the public space, they focus on online campaigns.<sup>35</sup> For instance, in May 2018, CEWLA launched a campaign on their Facebook page advocating that women should not lose custody of children if they remarry (CEWLA, 2018).

Meanwhile, the NCW is also working on its own bill but it has yet to reach parliament. In August 2017, the NCW formed a committee to draft a bill for a new personal status law that includes many state representatives from different ministries and government entities as well as civil society members (Al-Ahaly Gate, 2019). The head of NCW said in a news statement in January they have drafted and reviewed a 140-article bill, after holding more than 70 meetings

with ministries, agencies and authorities concerned (El-Balad news, 2019). Yet, till now, this bill has not been put forward to parliament. A NCW member said they were not allowed to speak about it; only one member of the NCW legislative is allowed to comment about the bill, but he could not be reached for an interview. Yet a third draft bill is under discussion currently in parliament, submitted by an MP affiliated with Al-Wafd party; his bill was sent to the NCW, other concerned councils and Al-Azhar for comments (El-Balad news, 2019).

The khul’ law represented a major accomplishment for women’s rights advocacy in Egypt. Although the khul’ law encompasses some shortcomings, such as not accommodating women from low socio-economic groups due to their inability to give up financial rights, recent work contends that women from across classes not only file for divorce using the khul’ law 1/ 2000, but also use it as a negotiation tool to improve their status within marriage (Zaki, 2017). Moreover, some studies also argue that khul’ is employed by underprivileged women from lower socio-economic backgrounds (Zaki, 2017), yet there is no accessible segregated statistics to specify that. In general, there are no official statistics made available pertaining to the employment of khul’ by women or focusing on khul’ rates over the years, but a recent study by Egypt’s official statistics agency CAPMAS showed that an average of 135,200 cases of khul’ were noted out of a total of 200,000 divorces in the year of 2015, constituting 67.7 percent of divorces in that year (Diaa, 2016). This indicates that almost 70 percent of divorces that year were requested by women who resorted to khul’ since this law by default requires the judge to issue the verdict in favor of women’s request for divorce. Although there are certainly some shortcomings in the law, it shows that women still resort to this for a relatively quick divorce process, avoiding the prolonged suffering of requesting divorce for harm in court.

The enactment of the khul’ law is a success story for women’s and feminist groups in Egypt, taking place in certain national and international circumstances. It created a momentum that resulted in broader efforts for complete reform of personal status laws that have yet to bear fruit. In that vein, it demonstrates how, under the best of circumstances, changes in the personal status law require a long period of time, careful framing, and strategic lobbying with the multiple authorities.

## CONCLUSION

Through examining these three cases studies, I aimed to offer an understanding of feminist and women’s legal mobilization in Egypt during varying political climates, unpacking trends and strategies of effective mobilization. In the case of domestic violence, progress has been stalled by state unwillingness to push for it, as well as a relative lack of discussion in mainstream public discourse. This is certainly in addition to the consecutive regimes which used women’s issues for their political agendas and ideological markers, either by upholding the status quo, or moving women’s status backwards, or in rare cases of progress for saving face as per the women’s quota. The former was the case with the Muslim Brotherhood or the current regime, which attempts to mobilize women with a rather patriarchal attitude and without much progress in laws or their implementation.

The second case of the criminalization of sexual harassment in 2014 is regarded a success story despite the law’s shortcomings and low reporting; it set a new public understanding that sexual harassment is wrong after years of disregard and denial by the state. This is a result of long grassroots work to raise the profile of sexual harassment, and a political situation after 2011 of relative fluidity that pushed it into the spotlight of mainstream discourse. This put public pressure on the state leading to criminalization,

<sup>32</sup> Criminal law in most Middle Eastern countries, emanates from Western European laws in addition to Islamic Shari’a law and customary law (Zuhur, 2005). Many legal frameworks related to gender and sexuality are attributed to postcolonial laws such as the penal codes on honor killings were derived from Ottoman Penal Code of 1858 and the French Penal Code of 1810 (Abu-Odeh, 2010).

<sup>33</sup> Interview with Mecky, 2019

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

as well as influencing new anti-harassment policies in various government-affiliated entities, like universities and ministries.

As for the personal status law, the *khul'* law constitutes a major victory for women and feminist advocacy in Egypt. It also marks the start to work on enacting a new personal status law, a matter often discouraged by past regimes. It showcased the significance of using strategic framing of changes within traditional and religious interpretation for a decades-long campaign, working with different authorities, and within that process, utilizing opportunities for local support and international pressure. This was particularly important in cases around personal status law where religion and religious actors play a chief role. Moreover, the case of mobilization around a personal status law is unique because of how the hybrid nature of the law aided women and feminist advocates. While the Egyptian legal system is a dual system, the family law in particular embodies a plurality of the Islamic Shari'a law and Western codified laws, unlike the penal code. This has been utilized by campaigners around the *khul'* law. This is a main difference that sets the mobilization around the *khul'* law or the personal status law at large apart from mobilization around gender-based violence. This is demonstrated by how advocacy around the personal status law centers on discussions with religious authorities with their reasoning anchored in alternative religious interpretations. In that vein, this case study shows how the suitable and careful framing of problems and efforts is crucial in legal advocacy. In contrast, advocacy around gender-based violence does not focus on religious rhetoric. Legal advocacy around gender-based violence, whether as domestic violence or sexual harassment, more commonly adopts the dominant narrative of a rights-based approach and capitalizes on Egypt's commitment to international conventions such as the CEDAW. This raises a concern where in certain cases civil society focuses on their own narrative and arguments while not necessarily responding effectively to opposition rhetoric.

While the criminalization of sexual harassment and the enactment of the *khul'* law represent a clear case of success in influencing policy-making in these cases studies, legal reform cannot be examined as a zero-sum game. In all of the above cases, whether domestic violence, sexual harassment or personal status law, even the efforts that fell short of their goals have yielded positive outcomes, such as influencing the Cabinet's violence against women strategy, and exerting some pressure on policy-makers by instigating talks in governmental bodies.

The Egyptian NGO scene is vast and vibrant, despite many recent setbacks; women and feminist groups and activists advocate and lobby in various ways in Egypt, although the political scene remains a major obstacle in their advocacy. This comes from the restriction of public space since 2013 as well as a general atmosphere of instability and political upheavals since 2011, including the dissolution of consecutive governments. As a culmination of the wide spectrum of advocacy and activism, the revolutionary moment of 2011 has instigated a change in public consciousness that paved the way for a wider advocacy. However, the instability and current restrictions on public activism has constituted an obstacle in gender-related policies and advocacy. Nonetheless, the NCW and government affiliated groups now have more space and access to lobby and submit bills.

The three cases studies, despite their differences, demonstrate how the transformative moment of policy outcomes require an opportunity window for vibrant and active civil society actors to instigate change and influence policy-makers. The opportunity window can be in the form of political support, regime engagement, international pressure, or all combined, as shown in the case studies. In that vein, the political circumstances

largely determine it, as it is central to exert any kind of pressure and influence policy-making. Policies around gender issues are often dictated by political agendas as tools to assert dominance or as ideology markers. In that sense, the consecutive political regimes played a role in hindering progress. For instance, during the time of the Muslim Brotherhood, there was not much space for progress, as they were attempting to mark their religious ideology differentiating them from the Mubarak regime, as in their attack on the *khul'* law, and in turn use women's bodies to assert their hegemony as regimes often do (Hafez, 2014). The current regime is characterized with a vested interest in mobilizing women for support (Zaki, 2015), as the current President Abdel-Fatah El-Sisi referred to the year 2017 as the year of women (State Information Service, 2017) in an attempt to distinguish itself from the previous regime. Yet, the regime has been criticized for the lack of actual policies that support women. However, women and feminist movements succeeded the most "when they have engaged the state, through contestation and collaboration, without abdicating their own identities and constituencies" (Basu, 2010, p. 3). The success of the sexual harassment amendment embodies this where it shows how essential it is to work on the grassroots level and engage with the state in contestations, and how this leads to incremental change. Civil society actors' tactics show that they acknowledge that the state is not homogenous, and they manage to work through dealing with the different state entities; from religious actors, to parliament and ministries. Also, in their mobilization, they attempt to work around the restrictive measures via, for example, utilizing social media, working with certain MPs, giving them the spotlight and sometimes avoiding the spotlight. As Tadros (2016) argued, to navigate the different authoritarian regimes and the complex political dynamics, activists develop collective action around gender issues in a diverse course of action and through a gradual process asserting that this was particularly easier to maintain than the mass mobilization (p. 268).

In the three cases studies, civil society actors tend to employ structured advocacy, online and offline media campaigns – pending on the public space – and engagement with the different government actors. NGOs as well as quasi-government bodies are currently the dominant forms of civil society actors. It may be contended that only sexual harassment encompasses collective movements in a sense where various youth initiatives have worked on it. These factors arguably put CSOs at risk of alienation. Regarding the diversity of civil society, it is not homogenous from modes of operation to state relations, however, it does not negate the policy work and success of women and feminist mobilization in Egypt, yet highlights its potential shortcomings. Focusing on legal mobilization as a strategy puts these groups at risk of alienation and may threaten the effectiveness of these policies. Some groups, though, employ various other activities and strategies such as awareness campaigns and providing support services, decentering legal mobilization and establishing community ties to navigate such a risk.

Further research is recommended to gain further understanding of the interplay of feminist mobilization and the political and social dynamics. Researchers need to dig deeper and explore the threat of alienation from the general public as a result of a focus on legal mobilization, defamation campaigns and lack of community mobilization in some cases. Moreover, the case of NCW represents an interesting matter that should be further examined. While the council should constitute a major force in the advocacy scene, it is perceived as a passive force that is solely at the disposal of the regime.

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## BREAKING THE MOLD PROJECT

*In mid-2018, the “Civil Society Actors and Policymaking in the Arab World” program at IFI, with the support of Open Society Foundations, launched the second round of its extended research project “Arab Civil Society Actors and their Quest to Influence Policy-Making”. This project mapped and analyzed the attempts of Arab civil society, in all its orientations, structures, and differences, to influence public policy across a variety of domains. This research produced 92 case studies outlining the role of civil society in impacting political, social, economic, gender, educational, health-related, and environmental policies in ten Arab countries: Lebanon, Syria, Palestine, Jordan, Egypt, Morocco, Tunisia, Yemen, and the Arab Gulf.*

*Over two dozen researchers and research groups from the above countries participated in this project, which was conducted over a year and a half. The results were reviewed by an advisory committee for methodology to ensure alignment with the project’s goals, and were presented by the researchers in various themed sessions over the course of the two days.*

## THE CIVIL SOCIETY ACTORS AND POLICY-MAKING PROGRAM

*at the Issam Fares Institute for Public Policy and International Affairs at AUB, examines the role that civil society actors play in shaping and making policy. Specifically, the program focuses on the following aspects: how civil society actors organize themselves into advocacy coalitions; how policy networks are formed to influence policy processes and outcomes; and how policy research institutes contribute their research into policy. The program also explores the media’s expanding role, which some claim has catalyzed the Uprisings throughout the region.*

## THE ISSAM FARES INSTITUTE FOR PUBLIC POLICY AND INTERNATIONAL AFFAIRS AT THE AMERICAN UNIVERSITY OF BEIRUT

*The Issam Fares Institute for Public Policy and International Affairs at the American University of Beirut (AUB Policy Institute) is an independent, research-based, policy-oriented institute. Inaugurated in 2006, the Institute aims to harness, develop, and initiate policy relevant research in the Arab region. We are committed to expanding and deepening policy-relevant knowledge production in and about the Arab region; and to creating a space for the interdisciplinary exchange of ideas among researchers, civil society and policy-makers.*

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