

The Mechanism for Universal Periodic Review

August 2009

Name of Organization: The Egyptian Organization for the Promotion of Societal Participation (The association in charge of coordinating for CEDAW coalition in Egypt)- Joint Report- August 2009

Contact Officer: Afaf Marei

Tel.: 0020222909903

Fax: 0020224150546

Email: cpe_eg@yahoo.com

Afaf_marei@yahoo.com

Website: www.mosharka.org

www.egyptiancedawcoalition.org (under construction)

Date of foundation of CEDAW Coalition: 1998

The programmes and activities:

1. Democracy Promotion Programme: This programme aims at activating the participation of citizens in the democratization and political reform processes.
2. Human Rights Awareness Programme: This programme seeks to raise the awareness of human rights at the elementary education schools and turns the culture of human rights into a way of life.
3. Gender Equality Programme: This programme is meant to empower women through making them acquire the knowledge, skills and experiences, which can help them to shoulder their huge responsibilities and have an influence on the other factors affecting their lives.

Priority issues:

Women's rights in Egypt have witnessed relative progress in the last few months, such as the allocation of 64 seats for women at the People's Assembly as an affirmative action, the issues of Family Courts Law, ending the discrimination against women in connection with granting the Egyptian citizenship for the children of Egyptian women married to foreigners and giving women access to get appointed in the Administrative Prosecution and judiciary.

In spite of these developments, Egyptian women are still suffering from several discriminations in laws in addition to other forms of discrimination and violence they experience in their daily life on the ground. As far as laws are concerned, divorce is still an absolute right for men and women are not entitled to exercise this right except when it is clearly mentioned in the marriage contract that the husband accepts to give his wife the right to divorce (known as isma). In this case only, women can divorce themselves in the same way as men. Apart from these rare cases, women usually have to navigate a complex, burdensome and time-consuming divorce system before Family Courts to end

their marriages. For women, to get a relatively quicker divorce, they can resort to filing no-fault divorce (known as khul) in exchange for forfeiting their financial rights.

The Penalty Code also discriminates against women, as it imposes harsher penalties on women committing adultery. A wife is penalized for two years, whereas a husband is penalized for no more than six months. To confirm and prove adultery under this law, the evidentiary standards applied on men are tougher than those applied on women.

On the other hand, Egypt is still having reservations on articles 2, 16 and 29 (paragraph II) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Egypt's reservation on Article 2 of CEDAW is the most serious, as this Article states that, " Having ratified the Convention, the signatory states have to take the necessary procedures towards the amendment of the national legislations, which do not comply with the provisions and objectives of the Convention." In fact, without adherence to this particular Article through taking these procedures, the Convention will be an inactivated text, namely, no more but "ink on paper".

As for the forms of discrimination against women in the real ground, all local and international statistics agree on the fact that illiteracy rate among women is higher than that of men, especially in the rural areas and women's access to healthcare services (including the reproductive health services) is less than that of men. This can account for the high mortality rate among pregnant women in Egypt. According to the same statistics, women constitute hardly a quarter of the workforce in the official sectors and working women do not get fair payment. It is said that they get one fifth of payment offered to men. Moreover, unemployment rate among women is much higher than that among men.

Violence against women: Although the term "honour crimes" is not mentioned in the Egyptian legislations, the killing of women under the claim of protecting one's honor is sympathized with at courts. The verdict in case of this crime, which is supposed to be a deliberate murder, is commuted by the judge as per Article 17 of the Code of Penalty that gives the judge to minimize the verdict by two degrees according to his perception of the motives or the legal reasons of the crime. Courts sometimes depend on the same Article for passing commuted verdicts in connection with crimes of rape and sexual violence. The Egyptian Law does not contain any provision criminalizing domestic violence. So, those women, who file legal actions to get divorced at the backdrop of being subjected to violence against them, have to prove this through submitting medical reports and eyewitnesses, while all forms of psychological violence are totally disregarded. Even if the evidence on physical violence is available, the final decision depends on the estimation of the situation by the judge. Moreover, the Egyptian Law does not recognize wives' rape by their husbands. There is not also any clear-cut legislation criminalizing sexual harassment at workplace.

Women and work: The unified Labour Law issued in 2003 includes some provisions, which support inequality between men and women with regard to certain conditions, such as women's work at night, women's access to risky or harmful types of work and some other provisions related to motherhood. In spite of the growing economic role being

played by women (33% of Egyptian families are supported by women) under the economic liberation policies, the speeding up of the pace of privatization, the decline of the state's role with regard to providing the basic services and the increase of unemployment rates, women's remarkable presence at the economic scene was due to other reasons, including the spread of poverty and the unemployment of husbands. The growing economic role of women was not coupled with giving women any legal rights within the family. In spite of the bad need for offering legal protection for women under such conditions, the Unified Labour Law wipe out many of the gains women used to enjoy earlier. For instance, women are not entitled any more to get a maternal leave before completing 10 months since the date of joining work, while it was only six months in the previous law. The Law gives women the right to have twice unpaid 90-day childcare leave on the condition that the number of employees at the institution should be more than 50 people. According to Law, there should be at least 100 female employees working in the institution so that it can be asked to provide kindergarten for the children of the employees. This is apart from gender discrimination in terms of payment and salaries. According to the testimonies of many female employees in various Governorates, the basic salary of female employees is less than that of their male counterparts at the early stage of recruitment. Moreover, female employees are denied the right to career promotion or assuming supervisory positions, as they are treated as if they were temporary employees, who can quit their jobs anytime because of their reproductive role in the family. Therefore, female employees are deprived of many privileges, such as career promotion, increase of salaries and other additional bonuses, which are offered to those promoted to higher positions. It is worth mentioning that there are two categories of female workers, who do not enjoy any protection under the Labour Law: female workers in farming or housemaids. So, we find that Law is siding with the employers at the cost of the employees and overlooking most of the complaints of housemaids, which may include refusing to pay the agreed upon wage or being subjected to sexual harassment at the hand of the males of the hiring family.

The current conditions of women under the Personal Status Law:

Although the Arab Republic of Egypt has signed CEDAW thirty years ago, the conditions of women suffer from some shortcomings. The issuance of a fair Personal Status Law is still facing several social, cultural and political problems and obstacles. For some religious currents, the call for such fair Personal Status Law is considered as a violation of religion and norms. So, serious and practical steps should be taken at the official level to accelerate the pace of change towards the effectuation of the principle of equality and nondiscrimination.

The absence of a fair Personal Status Law in Egypt is considered a flagrant discrimination against Egyptian women and undermining their rights to justice, security and safety. Real life is full of many marital problems and other problems caused by divorce, as women spend long periods in the litigation procedures to get divorced. This period, which could be for long years, might witness negotiations and bargaining over the rights of the child custody, child alimony and housing allowance...etc.

A- Egypt has voiced its reservation over the content of Article 16 of CEDAW, which is related to marriage, family relations, equality in terms of rights and duties under marriage and other matter governing family affairs. It is noteworthy that there is no fair Personal Status Law that regulates the issues of marriage, divorce, child custody, inheritance, guardianship in a way that protects women against discrimination and ensures gender equality. In fact, the Egyptian judiciary handles family affairs according to the teachings of the Islamic Shariat, thus causing several legal problems in view of the different interpretations of these cases by judges, which could be contradictory in some incidents. It is worth mentioning that the opinion of the judge in such circumstances is drafted according to the culture of the society, in which he was brought up.

B- In light of the predominance of the patriarchic culture in the society, the absence of the legal provisions that provide protection for women in the household and the actual cases being considered by courts, we come up with the conclusion that women are rarely allowed to get the same rights and benefits at time of marriage and divorce. For instance, divorce is still an absolute right for men. When women decide to go for divorce, they have to spend long years in the corridors of courts and ultimately they decide for ending this tragedy to choose a divorce predicated on the abandonment of their legitimate financial rights (including paying back the dowry). In some cases, husbands might go far in asking their wives to pay back amount of dowry, which is much higher than what they actually paid at time of marriage. Sometimes, husbands falsely claim having offered too much dowry in order to buy more time at courts, which continue the legal procedures to verify from the witnesses the real amount paid as dowry.

C- With regard to child custody, fathers enjoy, according to the Islamic Sharait, full custody on their junior children, while mothers do not enjoy the same right even if when they are given child custody.

D- Although women have the right to have their own financial assets, which is separate from that of their husbands, women are actually contributing to the family expenses. In fact, there is no certain legal regulation that allows women to protect their financial rights at time of divorce. Accordingly, wives sometimes walk away empty-handed without a house or property, even if they financially contributed to the purchase of the house or any other property.

E- The cases of divorce in Egypt has increased to record 2.459 million per annum and this means 240 cases of divorce occur everyday of which 43.5% divorced in the first year of marriage, 12.5% in the second year. 40% of divorced women in these cases are more than 30 years old. Such conditions result in family rupture, which was the reason behind the emergence of several social phenomena that negatively affected the development process in Egypt. The percentage of women working to support their families in Egypt has reached 40% and child labour has also surged. The number of street children in Egypt increased from almost 2 million children in 2004 to 3 million children in 2007. Although the family (formed after marriage) has to preserve the key social values in view of being an essential tool for the reproduction of the society and upbringing the generations to come, the family is living under social conditions that

minimize the social value of women and their status. The prevailing social discourse emphasizes that women have been granted many of their rights and this is reflected in the remarkable progress they achieved in various stages of education and their assumption of some leading positions after asserting their deservedness and competence. However, the provisions of the Legal Status Law, though partially amended every now and then, still imply grave gender discrimination. For instance:

1- The applicable laws do not give equal rights for husbands and wives, as husbands enjoy several absolute rights, such as unilateral divorce of their wives, polygamy and obedience award. For women to get divorced many conditions and requirements should be available and some of them are very difficult, such as proving of physical harm inflicted on them and waiting for a year to get divorced in case the husband is convicted in a crime and got imprisoned. Although wives have the right after divorce to child custody, until the junior male child reaches the age of 15 and the female child till the age of marriage, they are denied this right if they married after their divorce. In addition, divorced women, who have the children in their custody, do not have the right to claim hold of the marriage house and they are, instead, granted housing allowance. In fact, the content of these discriminatory and gender-biased laws are reflected in the litigation procedures and so the gains, which women could get from the new Family Courts, are still incomplete and limited. This is apart from the incompetence of the implementing mechanisms, shortage of resources, the poor capabilities of court staff and the modest training courses they receive.

Although introducing the legal reforms and amendments are the end goals, these reforms are deemed irrelevant and meaningless, unless they have actually resulted in important positive changes in the lives of the parties to the dispute, especially the weaker sections, such as women. So, appropriate and effective mechanisms for implementation should be put in place in one hand and a proper environment should be created on the other. This second precondition might take some time, but it is likely to be achieved, if the reform process is based on a grassroot-level participatory approach.

The Recommendations:

- 1- Withdrawing the reservations of the Egyptian government in connection with articles No. 2, 16 and 29 of the CEDAW. Adopting the optional protocol of the convention.
- 2- Removing all forms of legal discrimination and introducing the necessary legislative amendments and enacting laws that protect women against all forms of violence.
- 3- Issuing a unified family law for all Egyptians that takes into consideration the principle of citizenship and equality before law as prescribed in the Egyptian Constitution

and in the international conventions, especially CEDAW. Any provisions in the law underestimating or humiliating women's dignity should be removed for good.

4- Improving the healthcare and educational services provided for women. Setting up gender-sensitive policies and programmes.

5- Ensuring equal opportunities and women's access to opportunities offered in connection with training, academic scholarships and career promotion.

6- Promoting the conditions of rural women and supporting them with all possible means in order to improve the living standards of those women and their families as well. Raising the health and legal awareness of rural women.

7- Making available high-quality services, which take gender issue into consideration so that women can make use of them.

8- Adopting a media policy that supports women's role in the development process, advocates women's rights and eradicates the apostolate culture, which cripples women's march.

9- Offering all forms of support to facilitate women's access to leading positions and providing the required capacity-building support for women.

10- Offering social insurance services for poor and aged women in a way that guarantees a prosperous life for them and their families as well.