

“The Daughters of Egypt are a Red Line:” The Impact of Sexual Harassment on Egypt’s Legal Culture

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Abstract:

The purpose of this paper is to identify the impact of the rampant sexual harassment phenomenon on Egypt's legal culture. Having been vaguely defined in Egyptian laws and largely condoned by the society and justice system, sexual harassment increased over the years in both occurrences and intensity of violence. As a result, legal initiatives and grassroots movements arose attempting to criminalise sexual harassment and end social acceptability of the issue. With the fall of Mubarak, the human rights movements optimistically continued the request for an anti-sexual harassment law, and with the continuing political turmoil, the battle was more arduous than expected. Three years after the uprising, sexual harassment was finally criminalized and efforts to change public attitudes toward it continue, but the will of the state to enforce the law, beyond statements and promises, is yet to be proven.

Introduction

When I'm walking down the street alone, and to my right side there are boys standing by a kiosk and to the left there are [stray] dogs, I decide to walk on the side where the dogs are because it's safer, which makes this country rubbish.

The above words – originally written in Egyptian Arabic – were posted by a young Egyptian woman on the social media website Twitter in March 2013.¹ Sexual harassment represents by and large the most frequent type of sexual violence encountered by women in Egypt; it restricts women's freedom, mobility, and "deters them from appearing alone in public spaces" (Thompson 1994:322). In April 2013, UN Women published a study report which indicates that 99.3 per cent of the women surveyed have suffered sexual harassment in Egypt, and that 91.5 per cent have experienced unwelcome physical contact (UN Women 2013). These figures do not come as surprise considering that sexual harassment has had, for the most part, the status of a normative behaviour in the society (Quinney 1965:134), and has not been named explicitly as a crime in Egyptian law. Women in Egypt live under the constant threat of sexual harassment; whether in the streets, shops, public transportation, educational premises, workplaces, and/or protests (FIDH & others 2013).

The 25th of January 2011 uprising that began in Egypt's Tahrir Square and the fall of Mubarak brought hope to the women's rights movement to eradicate sexual harassment. The years that followed witnessed an evolution of laws: in June 2014, interim-president Adly Mansour issued a landmark decree amending the Penal Code to directly define and criminalize sexual harassment for the first time in Egypt's legal history; a concrete result of nearly a decade of tremendous efforts from civil society organizations in Egypt (UN Women 2014). Referred to by human rights groups as an "epidemic" (Human Rights Watch 2013), the seriousness of sexual harassment certainly gave birth to a resilient movement that succeeded in bringing about the unprecedented law, but has it affected the understanding of the place of law in society?

In his work on the law as a social phenomenon, David Schiff asks a series of important questions: "what is the relevance of statements such as 'that's alright, it's legal' or 'that's illegal' or 'it's not really a crime' for attempted understanding of social settings and their organisation? How important is the law at this level of social reality?" (1981:159) Through conceptualising sexual harassment as a human rights violation, this paper attempts to answer Schiff's questions by examining the impact of sexual harassment on Egypt's legal culture since 2005, with a particular analysis of the events that followed the 2011 uprising. Legal culture is a complex concept that reveals the role of law in the society, or in David Nelken's simpler definition, "[it] points to differences in the way features of law are themselves embedded in larger frameworks of social structure and culture" (2001:15). To make legal culture a more amenable concept to empirical research, Sally Engle Merry disaggregated the concept of legal culture from an anthropological perspective into the

¹ See "Shaden Mohamed (@ShadenMohamed) Tweet 3:13 AM" (Twitter, 17 March 2013) You could access the Tweet on <https://twitter.com/ShadenMohamed/status/313231522046038016>.

four dimensions that will be used to assess the main subject of this paper. The four areas are legal consciousness, legal mobilisation, the practices of legal institutions, and public attitude and beliefs about the law (Engle Merry 2012). In practical terms, the four dimensions significantly overlap and influence one another.

Section I defines sexual harassment as a violation and explains how the issue is perceived in the Egyptian lingual, legal and societal contexts. Section II evolves around the legal mobilisation towards an anti-sexual harassment law, especially in light of the uprising, as well as the impediments faced in the process. Section III explores the evolution of sexual harassment laws in Egypt after the 2011 uprising by looking at the first legal amendments under military rule, further developments under the Muslim Brotherhood, and finally the establishment of Egypt's first anti-sexual harassment law. Section IV evaluates the new law's impact on the practices of legal institutions, public officials, as well as the public attitude through conducting a general discourse analysis and examining enforcement measures by both the state and non-state actors.

I. A Human Rights Violation: Defining Sexual Harassment in the Law and Egyptian Society

i. What is Sexual Harassment?

Feminist scholar Dierdre Davis defines sexual harassment against women, particularly street harassment, as a "spirit murderer." Using the description of feminist legal scholar Patricia Williams, Davis explains that sexual harassment consists of "micro aggressions, [h]undreds, if not thousands of spirit injuries and assaults-some major, some minor-the cumulative effect of which is the slow death of the psyche, the soul and the persona" (1994:151).

Sexual harassment is a relatively new concept in international law, and has received little attention in comparison with other forms of sexual violence (Chinkin 2003:655). Egypt ratified CEDAW² in 1981, which overlooks to a certain extent sexual harassment outside the context of education or workplace. The country currently proclaims reservations to Article 2 (detailing policy measures), Article 16 (family law), and Article 29 (arbitration in the event of dispute) of the convention.³ In the regional context, Egypt remains one of three members of the African Union not to have ratified or signed the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, better known as the Maputo Protocol.⁴ Legal scholar Christine Chinkin stresses that there is a need to advance the understanding of sexual

² See UN Committee for the Elimination of All Forms of Discrimination against Women, "General Recommendation No 19" in "Note by the Secretariat, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies" (29 July 1994) UN Doc HRI/GEN/1/Rev.1

³ See Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTC 13.

⁴ See "Ratification Table / Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa" (African Commission on Human and Peoples' Rights) <<http://www.achpr.org/instruments/women-protocol/ratification/>>.

harassment due to its violation of a range of human rights such as freedom from degrading treatment, freedom of expression and freedom of association (2003:655). "These linkages emphasize that sexual harassment is committed in many locations, not just in the workplace, and that international legal prohibitions must be sufficiently broad to address that fact," Chinkin adds (2003:656).

That being said, such international human rights instruments play a vital role in highlighting the serious commitment to recognising sexual harassment as a form of violence against women. Until a cohesive, wide-ranging definition is introduced, this paper will be using the definition given by HarassMap, a leading anti-sexual harassment organisation in Egypt, as:

any form of unwelcome words and/or actions of a sexual nature that violate a person's body, privacy, or feelings and make that person feel uncomfortable, threatened, insecure, scared, disrespected, startled, insulted, intimidated, abused, offended, or objectified.⁵

ii. The Social Process of Naming Crime: A Salient Warning of Impunity

Al-taharush al-ginsi (Arabic for sexual harassment) is a relatively new term introduced to the daily Egyptian lexicon. Until now, sexual harassment has predominantly been referred to as *mu'aksa*, often translated as "flirtation," (Abdelmonem 2015:23) "teasing," or even "complimenting" in colloquial Egyptian Arabic.⁶ Nehad Abul Komsan, Director of Egyptian Center for Women's Rights (ECWR), noted that when the center began their work on sexual harassment in 2004, *taharush* (harassment) was often conflated with rape (Abdelmonem 2015:33): "There's a level of tolerance for *mu'aksa* given its widespread association with teasing, flirting, and courtship, and that nobody would ever see *mu'aksa* as a crime."(Ibid) This conceptual and lexical opaqueness of the meaning of the term reveals the multiple layers of denial that allowed a violative behaviour to be a normative one, wildly spread, particularly with the absence of a law to explicitly define it. This opaqueness is reflected in the legal processes, as MacKinnon explains in her work on sexual harassment, "it is not surprising either that women would not complain of an experience for which there has been no name(...)lacking a term to express it, sexual harassment was literally unspeakable, which made a generalised, shared, and social definition of it inaccessible" (1979:27).

Filing a sexual harassment report in Egypt was and still is a battle (illustrated in Section II), especially given how obliquely and unsatisfactorily it was addressed prior to the new law. As a matter of fact, according to the 2013 UN Women study on Egypt, 23.2 per cent of the women surveyed stated that they do not seek help from the police because the law did not penalise sexual harassment, and almost 20 per cent of those who reported cases were "scolded and mocked" and, in some cases, harassed by the police.⁷

⁵ See 'What Is Sexual Harassment?' (HarassMap) on <http://harassmap.org/en/resource-center/what-is-sexual-harassment/>.

⁶ A direct translation of the colloquial term is unavailable and changeable depending on the context.

⁷ "Study on Ways and Methods to Eliminate Sexual Harassment in Egypt" (n 3)13.

Before the 2014 presidential decree that defined sexual harassment in Egypt's Penal Code, the existing provisions that applied to cases of sexual harassment were Article 278 against "acts of public indecency" (*fi'l fadih*) and Article 268 against sexual assault (*hatk-'ird*).⁸ Such articles overlook the mild and subtle acts of harassment including verbal harassment, as Mackinnon states, such marginalization exists "largely because the non-physical male obscenity is intangible in legal terms and because the most violent acts take centre stage" (Peoples 2008:15).

Sexual harassment in Egypt is part of a bigger problem of social violence tolerated and accentuated by the lack of laws and lax security situation. According to the Egyptian scholar Mariz Tadros, the motives of harassers are diverse. They include "individual desires to enforce their dominion over women in the street, to have a 'good time' and 'entertain' themselves, and out of a perceived sense of sexual deprivation as a consequence of economic factors making marriage expensive and prohibitive." (Ibid) However, not all incidents of sexual harassment are driven by such motives. Egypt's recent history indicates that the government, assigned to safeguard human rights, has often been the perpetrator, whether by directly committing the crime or by simply turning a blind eye (FIDH & others). Sexual harassment in Egypt first came into public attention on the 25th of May 2005, a day that has been referred to by activists ever since as "Black Wednesday" (Ahram Online 2013). On this day, demonstrations were organised by opposition movements in Egypt in protest against Mubarak's constitutional amendments that paved the way for consolidating the authoritarian rule (EIPR 2013). During the demonstration, a group of female protesters and journalists were sexually harassed and assaulted by plain-clothed security officers and thugs hired by Egypt's former ruling party, the National Democratic Party (NDP).⁹ The police reportedly stood around and shouted the orders (BBC News 2005).

In 2006, after the exhaustion of all domestic remedies, the "Black Wednesday" case was submitted and found admissible before The African Commission on Human and People's Rights (ACHPR) to hold Egypt in violation of the African Charter ratified by Egypt in 1984.¹⁰ The four women applicants were represented by the Egyptian Initiative for Personal Rights (EIPR) and the international human rights group Interights. In its 2013 ruling, eight years later, the Commission found that Egypt violated, *inter alia*, the applicants' rights to equality and non-discrimination, to dignity and protection from inhuman and degrading treatment, and to express and disseminate opinions within the law. The Commission requested a monetary compensation to the complainants and urged Egypt to investigate and prosecute perpetrators, and to ratify to the Maputo Protocol. Though the case still remains unheeded by the Egyptian government, the ruling was regarded as a victorious step towards accountability, and was announced at a time when women continued to face sexual assaults from state and non-state actors for their participation in public and private life.

⁸ See "Law No. 58 01 The Year 1937 Promulgating The Penal Code" available on <http://www1.umn.edu/humanrts/research/Egypt/Egypt%20Criminal%20Code%20Law%201937.pdf>.

⁹ *Egyptian Initiative for Personal Rights and Interights v Egypt* [2013] African Commission on Human and People's Rights (323/2006).

¹⁰ The subsequent paragraph is based on the *Egyptian Initiative for Personal Rights and Interights v Egypt* [2013] African Commission on Human and People's Rights (323/2006), para. 67, para. 1, para. 271 (i), and para. 275 (vi).

II. In Pursuit of Socio-Legal Change: Legal Consciousness, Mobilisation and The Egyptian Revolution

i. Breaking the Silence: Egypt's First Sexual Harassment Conviction

Legal consciousness is a term developed to understand the way individuals shape their experiences in legal spheres, or in other words, “the way individuals experience and understand the law and its relevance to their lives” (Merry 2012:36). An individual’s legal consciousness hence varies depending on their experience with the legal system and the support they received for their claims. With a culture that condones sexual harassment and a justice system that marginalises it, women’s legal battle with sexual violence in Egypt is predominantly met with apathy, if not more violence. An awareness of legal entitlement requires positive reinforcement from the legal and social system. In Egypt, the prevalent victim-blaming culture, even inside police station, serves as a major barrier to justice. This obstacle, however, did not stop then 27-year-old Noha Al-Ostaz from standing up for her rights.

On a Cairo traffic-choked day in June 2008, a van driver reached out from his window, groped Al-Ostaz’s body, and laughed (Otterman 2008). With the help of a friend and bystanders, Al-Ostaz dragged then 30-year-old Sherif Jebril to the nearest police station where the police initially refused to open an investigation (BBC News 2008). “I just felt, I’m never going to let this happen again...the problem is that women aren’t taking advantage of the laws we have(...)unless we insist on our rights, and say no, and at least ask for help, or get him to the police station, things won’t change,” Al-Ostaz told The New York Times (Otterman 2008:44).

Al-Ostaz’s Case No.11551/2008 was referred to court, and was concluded in November 2008 with a three years prison sentence with hard labour under Article 268 (assault) for groping Al-Ostaz’s breast.¹¹ The defendant was also ordered to pay 5,001 Egyptian Pounds in damages to Al-Ostaz (Ibid). According to women’s rights groups and activists, the landmark verdict marked the first conviction in a sexual harassment case in Egypt’s recorded history (Ibid). Noha Al-Ostaz’s atypical consciousness of her legal rights broke the silence surrounding the grim reality of dealing with sexual harassment in Egypt. Moreover, she paved the way for other women to learn and insist on using their rights for legal remedy and redress.

ii. Towards an Anti-Sexual Harassment Law

¹¹ Sami Abdelrady and Farouk Aldesouky, "Al-Masry Al-Youm Publishes the Judgment on Merits in the Sexual Harassment Case (25) المصري اليوم تنشر حيثيات الحكم في قضية التحرش الجنسي <<http://today.almasryalyoum.com/article2.aspx?ArticleID=187753>> accessed 27 July 2015.

A common approach to understanding legal mobilisation is to examine the tendency for groups and individuals to define their problems as legal, and further demand a legal action to be taken (Merry 2012:64). Following Al-Ostaz's case in 2008, an unprecedented joint legal initiative was introduced; 16 Egyptian NGOs and movements launched the "Taskforce Combating Sexual Violence" (henceforth referred to as the taskforce) aiming to offer survivors of all forms of sexual violence the legal and psychological support necessary (EIPR 2010). Joined by other groups in 2010, the taskforce – consisting of 23 NGOs – released an inclusive bill to challenge the existing restricted and misguided sexual violence provisions mentioned in Section I by proposing "an accurate definition of the three main crimes: rape, sexual assault and sexual harassment" (EIPR 2011).

The bill adopted "an integrated, rights-based approach to protect against all forms of sexual violence without discrimination (...) [and] proposed an accurate definition of the three main crimes: rape, sexual assault and sexual harassment" (EIPR 2011). It was a tool to challenge the shortsighted and misguided provisions of sexual violence. In regards to sexual harassment, Article 269 bis of the bill defined the crime as the act of stalking or using direct or indirect verbal abuse or sexual advances that "violate chastity" through any means, including phone calls and indecent phone or online messages (EIPR 2010). On the 16th of January 2011, without consulting civil society organisations, Egypt's Cabinet (chief executive body) approved other Penal Code amendments that were highly criticised by the taskforce. Among those weak proposals was referring to "sexual harassment" as "intimidation."¹² But it was not long before the government was met with non-violent civil resistance in the form of nationwide protests and sit-ins; a revolution.

iii. Revolutionary Moments and Unmet Hopes

"Al-sha'ab yurid isqat al-nizam!" (The people demand the downfall of the regime)¹³ is a chant that shook Cairo's Tahrir Square during the first 18 days of the Egyptian uprising that led the three-decade ruler Hosni Mubarak to resign on the 11th of February 2011 (The Guardian 2011). Mubarak's power was handed over to Egypt's Supreme Council of Armed Forces (hereafter SCAF), a rule that continued the legacy of suppressing dissent. The language of human rights used during the Egyptian uprising played a big role in mobilising and empowering women to fight sexual harassment. Or in Upendra Baxi's depiction, it gave "voices to human suffering [...] to interrogate the barbarism of power." (Baxi 1998:127) A few days after the fall of Mubarak, then 24-year-old Nawara Belal was verbally harassed by an army officer while driving. "I got out of my car, opened the door of his car and slapped him in the face(...)it gave me the power to do what I wanted to do to every harasser in my past(...)I would never have been able to do that before the revolution," Belal told CNN (Davies 2011:6). But it was not long before this hope was met with uncertainty.

¹² "The Government Must Submit the Sexual Violence Bill to National Debate... 23 NGOs Urge the Government to Initiate a Debate on Amendments to the Law on Sexual Violence before Submission to Parliament" (n 54).

¹³ "Jan 25 8pm Egypt- Tahrir Square- Downtown" (YouTube, 25 January 2011) Video available on https://www.youtube.com/watch?v=l_emuOVvlbU.

Mubarak was gone, but sexual harassment and the patriarchal systems embodied in the series of governments that followed remained a more resilient foe.

A Million Women's March in Tahrir Square was scheduled on the 8th of March 2011 to coincide with International Women's Day. A group of men attacked the march, chanting, "al-sha'ab yurid isqat al-sitat!" (The people demand the downfall of women) (Davies 2011) – a variation of the Egyptian revolution's primary chant. It was not limited to anti-feminist chants: women were sexually harassed and the men who accompanied were beaten.

In her writings on sexual harassment in international human rights law, Christine Chinkin states that there's a "well-documented connection between militarism and the presence of military forces within a vicinity and sexual harassment" (2003:657). On the 9th of March 2011, army officers violently evacuated Tahrir Square of protesters and detained at least 17 women; seven of them were forced to undergo the so-called "virginity tests." (EIPR 2013) Members of the SCAF had argued that those tests were aimed at protecting soldiers from allegations of rape (Ibid). In Sherine Hafez's words, "women's bodies, once mobilised (and mobilising) to take to the streets to support the revolution became, after the end of Mubarak's regime, the source of contention and debate. Virginity tests, sexual assaults, fatwas or religious decrees validating the rape of unveiled activists were violent measures targeting the female body to structure women's marginalisation from politics and subvert democratic life in the country" (Hafez 2014:173).

Although the appalling "virginity tests" received a lot of media attention, the army's assaults against women did not terminate there. In yet another brutal crackdown on the protests in downtown Cairo, one infamous video was shot in December 2011 showing army officers violently dragging a woman clad in a black *abbaya* (robe) as she was lying on the ground. They repeatedly viciously kicked and clubbed her, stripping her robe, revealing her upper body and her blue bra¹⁴ – a haunting image that will forever leave a stain on the history of Egypt under the SCAF's rule. "*Banat masr khat ahmar!*" meaning "the daughters of Egypt are a red line," an off-limits target, chanted a crowd of thousands of outraged women who marched in downtown Cairo holding anti-army signs and brandishing the image of the "blue bra girl" (BBC News 2011). A military official responded that the army would investigate this incident, however, till now, no one has been held accountable. "He who violates the honour of our girls cannot be entrusted with our country," said one sign at the protest (Ibid). Such a social response can illustrate an impact on both women's legal consciousness and mobilision, by which experiences of violence against women are redefined as violations (Ibid).

iv. "The Circles of Hell:" Mob Sexual Harassment, Assaults and Rape in Protests

¹⁴ "Shocking Video: 'Blue Bra' Girl Brutally Beaten by Egypt Military" (YouTube, 18 December 2011) available on <https://www.youtube.com/watch?v=mnFVYewkWEY&bpctr=1438264944>.

In the midst of the protests that took place in Tahrir Square following 2011, reports of violent mob sexual harassment and assaults against female protesters started to emerge. Because of the social stigma attached, survivors of sexual violence in Egypt are rarely willing to speak publicly about their experiences. In a rare case in February 2013, then 30-year-old Yasmine El-Baramawy appeared live on a renowned Egyptian TV show to share her horrendous account as a survivor of gang rape in Tahrir Square.¹⁵ In protests against former president Mohammed Morsi's constitutional amendments of November 2012, El-Baramawy was surrounded by tens of men, maybe a hundred, who stripped and assaulted her for 90 minutes in the perimeters of the Square (*Ibid*). Displaying the ripped-with-blades remnants of her trousers from that day on public TV, El-Baramawy recounted that she was put on the hood of a car which drove around the vicinity, and the perpetrators screamed that she had got a bomb strapped around her to thwart any help.¹⁶ The systematic pattern of attacks was later referred to by activists as "the circles of hell" (FIDH & others 2013:11). In March 2013, and with support of Egyptian civil society El-Baramawy was joined with six other survivors of the Tahrir by filing a joint legal complaint.¹⁷ Until today, the case has not resulted in any indictments and remains under investigation.

Despite the dearth of precise data indicating a correlation between the uprising and the rise of sexual violence in Egypt, Egyptian women's rights activists argue that the general spread of violence and reoccurring clashes has had an indisputable influence: "we cannot separate the increase in violence against women in the public sphere from the fact that more women are now more active in more public spaces than before" (Zaki & Abd Alhamid 2014). This form of violence gave birth to a number of grassroots intervention movements, among which is the volunteer-based group Operation Anti-Sexual Harassment & Assault (hereby OpAntiSH). OpAntiSH's main mission is to "save victims exposed to such incidents and also make the experience less severe by observing the Square and [physically] intervening in case of the formation of such mob assaults,"¹⁸ or in other words, to carry out the state's responsibility.

On the 25th of January 2013, in the celebrations that marked the second anniversary of the start of the Egyptian uprisings, the group documented 19 cases of mob sexual assaults against women and girls in Tahrir Square, some of the cases witnessed rape with sharp objects.¹⁹ Alas the official reaction was rather appalling. "The girl (...) has to protect herself before asking the police to protect her... [She] is 100% responsible for her rape because she put herself in that position," said General Adel Afifi, a member of the

¹⁵ "ياسمين البرماوي وواقعة التحرش بها في التحرير" - Yasmine El Baramawy and the Sexual Violence Incident in Tahrir" (YouTube, February 2013) available on https://www.youtube.com/watch?v=l7w_jKRrVNc

¹⁶ "ياسمين البرماوي وواقعة التحرش بها في التحرير" - Yasmine El Baramawy and the Sexual Violence Incident in Tahrir" (n 76).

¹⁷ "Egypt: Epidemic of Sexual Violence" (n 8).

¹⁸ "Op Anti-Sexual Harassment/Assault - About" Facebook account available on https://www.facebook.com/opantish/info?tab=page_info

¹⁹ "Press Release: Operation Anti-Sexual Harassment/Assault" (Facebook, 29 January 2013) <<https://goo.gl/5gUBLK>>.

Shura Council's (the former upper house of parliament) Human Rights Committee. During and after the protests that called for the ouster of former president Morsi in the period between the 28th of June until the 7th of July 2013, OpAntiSH and Nazra for Feminist Studies documented a total of 186 cases ranging from mob sexual harassment to rape (Kirolos 2013). According to Vickie Langohr, the work of groups such as OpAntiSH "provided crucial momentum for the recent penal code amendments on sexual harassment, in part because of the coverage their work received in the media" (Langohr 2014). According to Lutz Oette and Ilias Bantekas, such grassroots movements acting on the ground articulate "forms of resistance that address injustices with a view to challenging elite agendas and institutionalised decision-making processes(...)an alternative human rights discourse that redefines civil society and democracy" (Oette & Bantekas 2013:100).

III. The Evolution of Egypt's Sexual Harassment Law

i. Between Military Rule and the Muslim Brotherhood

Egypt's political turmoil witnessed an unremitting lack of will from the consecutive governments to protect, promote, and fulfill women's rights and access to justice, yet another legacy from Mubarak's 30-year dictatorship. Throughout the evolution of laws in Egypt relating to sexual violence, the state continuously leaned towards an increase in penalties and setting a minimum sentence as means of deterrence, also known by criminology experts as "deterrence through sentencing" hypothesis (Doob, Webster & Gartner 2014). Similar to the amendments proposed before the uprising that were criticised by the taskforce (See Section III), SCAF issued decree No.11 in April 2011, amending certain provisions in the Penal Code relating to crimes of sexual violence. In regards to sexual harassment, the decree introduced Article 269 *bis* stipulating that "public act of indecency" or verbal abuse is punishable with a minimum of a three-month prison sentence (Al-Youm 2011:7) – still sexual harassment was not specifically addressed. A harsher sentence and a monetary fine ranging from 500 to 1,000 Egyptian Pounds is to be imposed if the crime is to be repeated (*Ibid*). There are no indications that the decree has had any influence; in fact, according to experts, the answer to whether harsher sentences reduce crime is no: "We could find no conclusive evidence that supports the hypothesis that harsher sentences reduce crime through the mechanism of general deterrence" (Doob & Webster 2003:187).

Representing Egypt's Muslim Brotherhood (hereby MB), Morsi's regime attracted additional criticism, prompting decisions on a number of overdue demands. In March 2013, former Prime Minister Hisham Qandil ordered the government-affiliated National Council for Women (NCW) to draft a comprehensive law to combat sexual harassment and all forms of violence against women (Daily News 2013). Ironically, Egypt's MB issued a statement a few weeks later denouncing the 57th UN Commission on the Status of Women's (CSW) document on eliminating all forms of violence against women claiming that it contradicted Islam (Ikhwanweb 2013). In the ten-point statement denouncing the commission, the MB used the cultural relativism argument, perhaps the most common argument invoked by states while discussing international women's rights obligations according to feminist legal scholars (Charlesworth & Chinkin 2000:222).

Later in May, the interior ministry formed its first female-only unit to combat sexual violence in Egypt (Marroushi 2003). Paradoxically, the unit consisted of only 10 members to combat an epidemic in a population of more than 80 million (*Ibid*). In June 2013, the NCW submitted the draft law to combat violence against women to the Morsi's cabinet without consulting or addressing the concerns of women's rights groups and activists (FIDH & others 2013:29). However, with the removal of Morsi from power in early July and the dissolution of Parliament, the draft law moved no further.

ii. A Step in the Right Direction: How Sexual Harassment Was Criminalised

In the 1970s, Islamic militants in Egypt won their first adherents by taking over Egyptian student politics on public university campuses. An appealing strategy for mobilising and gaining a foothold from female students was to offer them protection from sexual harassment "by providing them with private transportation and campaigning for sexual segregation in the packed classrooms" (Reed 1993:94). As the problem persisted in the decades that followed, Cairo University witnessed a major sexual case that remarkably put the issue firmly on Egypt's interim government's agenda. In March 2014, as a female student was walking across the faculty of law campus, she was surrounded by a large group of male students who sexually harassed her. Filmed by unconcerned bystanders, videos of the incident went viral on social media and satellite channels.²⁰ The incident received greater outrage from women's rights groups when Gaber Nassar, the head of Cairo University, called it a one-off incident claiming that the student did not dress "appropriately" and that she, as well as the harassers, might face punishment.

Fortunately, the outcry of human rights groups was – at last – heeded. The following month, Ahmed El-Sergany, aide to Egypt's justice minister, stated that the Cairo University incident triggered reconsideration of Egypt's existing laws on sexual harassment, and confirmed that a bill was submitted to the cabinet after the ministry's revision (Ahram Online 2014). In June 2014, just a few days before handing power to president elect Abdelfatah Al-Sisi, former interim president Adly Mansour issued Decree No.50 amending Article 306 (a) *bis* of the Egyptian Penal Code and adding Article 306 (b) *bis* to combat crimes of sexual harassment, now punishable by a minimum six-month jail term and a 3,000 Egyptian pounds fine and defining it in the Penal Code for the first time in Egypt's history (UN Women 2014).

Perhaps – and most likely– the decree was part of a wider political purpose to legitimate Al-Sisi's rise to power (El-Rifae 2014). Besides, Egypt's Penal Code still excludes other forms sexual violence and violence against women such as anal rape, marital rape, and domestic violence (EIPR 2015). Having said that, one has to acknowledge that this landmark law is a major step towards achieving safety for women and girls

²⁰ ONTV, "ست الحسن - واقعة تحرش جماعي داخل حرم جامعة القاهرة", Mob Harassment Incident on Cairo University Campus" (YouTube, 17 March 2014) available on <https://www.youtube.com/watch?v=alCv7-UZE04>.

whose rights to freedom from sexual harassment is violated on daily basis. It is, moreover, a small step in changing the culture of state negligence and deep-rooted social acceptance of this epidemic delinquency.

IV. Sexual Harassment's Impact on State and Society

i. The Practices of Legal and Executive Institutions

The practices and norms by which legal institutions operate imply how practitioners within the law see the rules. In her study of street harassment, scholar Laura Beth Nielsen suggests that the main reason for reluctance in turning to anti-harassment laws is a lack of faith in the enforcement mechanisms (Nielsen 2004). Despite the difficulty in measuring the enforcement of the soon two-year-old law in statistical or factual terms, due to the scarcity of obtainable data, analysing the role of public officials and critically analysing official statements and judicial prosecutions can provide a lens through which one can explore the changing practices of legal institutions and the political will to combat sexual harassment in Egypt. In early June 2014, the celebrations of Al-Sisi's election inauguration in Tahrir Square witnessed at least nine incidents of mob sexual harassment and assault documented by human rights groups who then questioned the competence of the new law to tackle the issue.²¹ Al-Sisi's response to the incidents, though perceived as purely propaganda-motivated by human rights activists (El Rifae 2014:107), was an unprecedented one.

After the rapid arrest of seven alleged assailants, Al-Sisi was photographed visiting a survivor of the attacks at the hospital; he handed her flowers and –with immense media coverage– apologised to her (The Guardian 2014). “I apologise and promise you that as a state we will not accept that such incidents will take place in the future,” Al-Sisi told the survivor whose face was blurred (BBC News 2014). In addition to the speed with which the cases were handled, admitting the state’s responsibility for the protection of its citizens, particularly women, is a breakthrough in the practices of legal institutions which shape how the law works. A few days later, the seven assailants were sentenced to life for crimes of sexual harassment, under the new law, and of attempted rape, attempted murder and torture (Reuters 2014). In the words of the prominent Egyptian human rights activist and lawyer Gamal Eid, although the ruling is harsh, “[it] gives a strong message to all harassers that their actions are no longer tolerated or accepted.” (*Ibid*) It is noteworthy to mention that it was Al-Sisi – then a top general – who defended the “virginity tests” of March 2011 (See Section II) (Saleh 2014:116), a haunting case for human rights groups and activists. Al-Sisi’s intention to score political points is in line with the Marxist criticism that rights can be utilised in the service of a political interest, or in Baxi’s theory, a sample of the “the politics of human rights’ as opposed to ‘the politics for human rights” (2008:57).

²¹ "The Mob-Sexual Assaults and Gang Rapes in Tahrir Square During the Celebrations of the Inauguration of the New Egyptian President Is Sufficient Proof for the Inefficiency of the Recent Legal Amendments to Combat These Crimes" (*Nazra For Feminist Studies*, 9 June 2014) <<http://nazra.org/en/2014/06/mob-sexual-assaults-and-gang-rapes-tahrir-square-during-celebrations-inauguration-new>> accessed 22 July 2015.

Another exceptional transformation in legal practices – though only time will prove the extent of its implementation – is Egypt's national strategy to combat violence against women, announced in April 2015. As part of the strategy, the interior ministry increased the number of patrols for responding to cases of violence against women, in addition to hiring female physicians to receive survivors of sexual violence (Egyptian Streets 2015). Cautiously welcomed by human rights groups, organisations such as EIPR underline that the strategy denies "that police personnel 'are involved in the daily acts of sexual harassment(...)the ministry's efforts are merely formal procedures that do not seek to change the mindset of police officers and security personnel on women's rights."²² Skepticism from the human rights community about the state's contemporary enthusiasm for women's rights is thus understandable. Almost a year after the passing of the law, 26-year-old Amira experienced EIPR's concerns in filing a sexual harassment case at a police station: "Go home, girl, they told me(...)Surely your father wouldn't like to hear that his daughter is a whore." (Huffington Post 2015) It will remain difficult to trust the Egyptian police's willingness to cooperate, mainly because they remain exempt from accountability, bearing in mind that no steps were taken after the ACHPR's ruling in the Black Wednesday case referred to in Section II. Those limits were also illustrated in using the law as a pretext for more policing. In *Eid al-Fitr* (public holiday) of July 2015, photos of female police officers on duty to combat sexual harassment featured media reports on the interior ministry's success in arresting tens of individuals for sexual harassment (Egyptian Streets 2015). During the unit's *Eid* operation, a video was virally circulated showing a female police officer dragging a male harasser into the lobby of a cinema. She slapped him on the face and then brutally jabbed him with an electric baton (BBC News 2015). It is thus pragmatic to be skeptical towards the application of law that aims to protect bodily rights when it's indeed violated by those who are obliged to safeguard them.

ii. Can the Law Affect the Public's Behaviour?

David Schiff argues that a new law's impact on social behaviour and the level of compliance cannot be easily measured in factual terms, even though sanctions may be applied (1981:153). However, it is fair to say that the human rights movement has achieved one of its ostensible objectives – talking about sexual harassment is no longer taboo. Langohr argues that the circulation of videos and evidence documenting the crime "has forced the issue of sexual harassment into mainstream public discourse and made the phenomenon harder to deny" (2014:88). Having said that, and as addressed earlier, even with the existence of a law, a dominant social attitude of acceptance towards sexual harassment remains a main barrier in changing beliefs about the crime.

While laws should contribute to the creation of order and its maintenance, this argument rests on "the ability of the law to control behaviour." (Schiff 1981:152) "The biggest issue is still the cultural one: society doesn't see it as a crime(...)I don't think sexual harassment will be properly part of the government agenda unless

²² "A Confused Step in the Right Direction: Commentary on the National Strategy to Combat Violence against Women" (n 108).

society changes," said HarassMap's spokesperson Eba'aa El-Tamami (The Guardian 2014). Such concerns can be illustrated in the reaction of a female TV presenter who giggled when her colleague reported sexual harassment incidents on Al-Sisi's inauguration celebrations, adding that the people were simply "happy" (Saleh 2014:116). Sexual harassment by then was a crime and, albeit after a delay, the presenter was suspended (Kingsley 2014:114). The victim-blaming culture certainly augments the challenge, especially with the lack of cooperation from religious figures. In his Friday sermon in one of Cairo's major mosques, Sheikh Sami Abd Al-Qawi did indeed denounce sexual harassment, but he rather asserted his view on its causes, and he blamed it on "scantly dressed women" (Langohr 2014:88).

In an attempt to change the public tolerability towards sexual harassment, HarassMap, launched in 2010 as volunteer-based movement, became Egypt's first independent initiative to work on the issue of sexual harassment in response to the wide social acceptability of the issue.²³ The group established a free software method to receive anonymous SMS reports that it would process into a mapping system with an aim to encourage women to speak up. According to their latest "map" of reports, the group received over 950 reports ranging from ogling and catcalling to mass rape between January 2011 and August 2015.²⁴ After the enactment of the new law, HarassMap launched its '*Al-Mutaharish Mugrem*' (the harasser is a criminal) campaign. The campaign circulates videos and posters which use the new law on to motivate people to take action and intervene in support of the harassed, "so that together we can transform our society into one in which harassers cannot act with impunity."²⁵ In an attempt to use similar methods, a ministerial committee tasked to combat sexual harassment announced, *inter alia*, a competition "to choose the best TV series screened during Ramadan – a popular month for TV drama – that promotes women's rights." (Ahram Online 2014) In addition, a number of young musicians came together and made a song titled "*Who's Shame?*" criticising society for not standing up for women who face daily harassment, and mocking male perpetrators.²⁶ These steps are all in line with the notions conveying the message of the law to the wider society, which, in due course, develops the legal culture (Merry 2012:63).

Conclusion

It is fair to say that the birth of a joint, feminist anti-sexual harassment movement that refuses to tolerate patriarchal attitudes and practices is one of the unequivocal gains of the 2011 Egyptian uprising. The efforts exerted by the human rights movement in combating sexual harassment has delivered, to a large extent, a positive impact on the country's legal culture – particularly legal consciousness and mobilization – the two main dimensions that offered the best way to understand sexual harassment and their relationship to Egypt's socio-legal context (Merry 2012:43). This optimistic aspect of the conclusion is derived from

²³ "Who We Are" (HarassMap) <<http://harassmap.org/en/who-we-are/>> accessed 1 September 2015.

²⁴ "The Map" (HarassMap) <<http://harassmap.org/en/what-we-do/the-map/>> accessed 2 September 2015.

²⁵ "Harasser Is a Criminal" (HarassMap) <<http://harassmap.org/en/harasser-criminal/>> accessed 2 September 2015.

²⁶ See "Who's Shame?" (العيب على مين) (YouTube, 15 August 2015) available on J.

scrutinising the evolution of the discourse and laws on sexual harassment from both legal and sociological perspectives over the last decade. Egypt's human rights movement broke the taboo that inhibited public discussions on sexual harassment, to the extent of empowering survivors to overtly share their testimonials, in addition to imposing a certain level of political awareness in tackling women's issues in the media and online social networks. Even though there still remains tension around the colloquial naming of sexual harassment as *al-taħarush al-ginsi* (Abdelmonem 2015:24), the persistent use of the term added 'taħarush' to the sexual offences in the Egyptian Penal Code.

However, on a less positive note, the key findings of the paper share the human rights movement's skepticism of an instant concrete transformation in the state's practices towards cases of sexual violence, especially in this general state of human rights regression. For now, the latest state measures might signal a willingness to combat violence against women, but without actual implementation, in conformity with human rights obligations, the law is no more than ink on paper. The Egyptian authorities have to uphold justice in ongoing cases such as the Black Wednesday, the "virginity tests," and Yasmine El-Baramawy *et al.* The government is required to enforce its recently-launched national strategy, as well as act under binding international law obligations such as CEDAW.

On the 25th of January 2011, the Egyptian people stood poised against Mubarak's dictatorship with an opportunity to put an end to all forms of gender based violence. When horrendous sexual violence incidents took place in the primary symbol of the revolution, Tahrir Square, the spirit of women and their fervent chants declaring their bodies an off-limits "red line" pushed a particular perception forward: freedom from sexual violence is a basic human right. And despite the bleakness of the current human rights situation in Egypt (Human Rights Watch 2015), there is no better time to declare the achievements of Egypt's human rights movement in the fight against sexual harassment.

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