



The first Arab platform to advocate for the right of justice

## Women's Rights... Between Important Decisions and Absent Legislation

A monthly report issued by the platform of Your Lawyer (Mo7amek) in cooperation with The Egyptian Center for Women's Rights and the Gender and Legal Expert House

### INTRODUCTION :

The month of June carried important presidential decisions. During the meeting of the Supreme Council of Judicial Bodies chaired by President AbdelFattah AISisi on June 2, 2021, a number of decisions were taken that contribute to reforming the justice system, increasing transparency, justice and equality in appointment, grievances, and equal pay among all judicial bodies. This emphasizes justice and equality and opens the way for all marginalized groups to engage in judicial work, especially young women in the legal field, who have suffered from gender-based discrimination for decades.

These decisions are considered an important step that contribute directly to the implementation of the constitution and the law and the reduction of discrimination in the appointment of women in judicial bodies. The decisions also confirmed the beginning of the work of women in the State Council and the Public Prosecution as of October 1st 2021. On the other hand, the issue of marital rape has recently been raised in traditional media and on social media, and there has been controversy over its legality. Since there is no article in the law that would criminalize marital rape, the controversy continues.

### ACCESS TO JUSTICE

#### Legal advice and consultations were received by 'Mo7amek'

1739 consultations were received by "Mo7amek" across its different platforms and means as follows:



1003 consultations were received on both "Hekayat Nehad" as well as "Mo7amek" on Facebook. This made up 57.6% of the complaints.



444 consultations were received on both mobile and landline phones, making up 25.5% of the complaints.



290 consultations were received on the Mo7amek website, constituting 16.7% of the consultations.

### HUMAN RIGHTS TERMS

#### Sexual Violence



Sexual violence is defined as any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work. This can happen in marriages especially when there is a lack of consent for sexual activity on the part of one of the spouses.

Any sexual activity with a child (any person who has not yet completed 18 years of age) constitutes sexual violence and has devastating effects on the child's development and physical and mental health.

Source: United Nations

# What does the law say? On marital rape

"I have been married for five years and I have two children, one is three years old and one is two years old, my father is dead, and my husband is a thug and he always beats and insults me. He does drugs, and wants to have sex every day, to the point of exhaustion. And sometimes I am tired and so I reject him. He hits me hard and forces me. I am afraid to get a divorce. I don't know how to take my rights, especially since there is no one with me who can stand against him."

## Legal Text Regarding Marital Rape:

Human rights organizations define marital rape as "intercourse that takes place without the consent of one of the spouses, and the absence of consent is sufficient to consider it rape even if violence is not used."

However, so far Egyptian law does not recognize marital rape, nor would the husband ever be held accountable for it. Despite the existence of Article No. 267 of the Egyptian Penal Code, which states that "anyone who has intercourse with a female without her consent shall be punished with death or life imprisonment," the article did not distinguish if the perpetrator was the husband or others.

## Obstacles that prevent women from obtaining their rights:

A woman is considered a "disobedient" woman, i.e. outside what the Sharia and law have decided by not obeying her husband, and she is deprived of her financial rights. The wife is treated according to Article 60 of the Penal Code, which states that "the provisions of the Penal Code do not apply to any act committed in good faith, pursuant to a right established by Sharia" - so, in the event of marital rape, The woman is forced to file for a "divorce on the basis of harm" and it is left to the judge to decide.



Series of videos ... Nehad Abulkomsan: Explains the concept of marital rape, its types, legal opinion, analysis of the perpetrators' personalities and real stories.

<https://fb.watch/6ofPWyoZr-/>

<https://fb.watch/6ofSTyIHbF/>

<https://youtu.be/9L7Skd-6en4>

## Women's Constitutional Gains:

### Article 53

#### Equality in public rights and duties

"Citizens are equal before the law, possess equal rights and public duties, and may not be discriminated against on the basis of religion, belief, sex, origin, race, color, language, disability, social class, political or geographical affiliation, or for any other reason.

Discrimination and incitement to hate are crimes punishable by law.

The state shall take all necessary measures to eliminate all forms of discrimination, and the law shall regulate the establishment of an independent commission for this purpose."

The constitution focused on criminalizing discrimination in all its forms, whether on the basis of religion, creed, gender, origin, or any other reason. The constitution obligated the state to eliminate all forms of discrimination, and even established a commission to confront this discrimination.