

On Sexual, Judiciary & Economic Violence in Post-Revolutionary
Egypt: Features of a System of Exploitation

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Abstract

The above graffiti painting known as “circle of hell” is a result of the activism of *graffiti harimi*, an initiative that seeks through art to give Egyptian women a voice in public spaces. This painting depicts sexual violence that occurred during and after the second anniversary of the 25th January 2011 revolution. It seeks to raise awareness of the particular incident in 2013, where female protestors in Tahrir square faced brutal and violent gang rape as they were encircled by 200 to 300 men who fought, beat, assaulted, and stripped them. Sexual violence and harassment in Egypt do not just perpetuate due to victim blaming or self-censorship or because of the lack of laws that tackle sexual violence effectively. I argue in this paper, that sexual violence in Egypt finds its root causes in a misogyny that is not embedded in the nature or culture of the Egyptian society but is rather a feature of a system of exploitation. This system ensures its sustenance through judicial and economic violence but also through dividing society over issues of gender, culture, and religion. This turns Egyptians away from revolting against statesmen, judges and state elites who abused their power, and puts them in the situation where they have to deal with a culture and a version of Islam that does not represent them but yet is reproduced by a patriarchal state. Such a culture allows sexual violence and harassment to continue to exist, but also causes a neo-colonial international system to be preserved, where women become its objects, and are stripped this time of their identity, and values in the name of liberty, autonomy, and agency. This paper aims to highlight to contemporary active feminists that misogyny in the Egyptian society is not just a social product or the result of a dominant culture, but rather misogyny towards Egyptian women has developed in Egypt especially after the revolution due to the circumstances and system the Egyptians have inherited. This approach is equally progressive to that where the

perpetrator has committed sexual assault and needs to be punished by effective laws for his own action. This approach allows us to reveal the deeper causes of such action and understand how did they come about to exist.

Key words: sexual, violence, state, governance, international, Egypt, feminist, system, power, misogyny, root causes

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How Do We Make Meaning of Sexual Violence?

When I wrote the first four letters of the word ‘sexual’ in the Google search engine, the first suggestion that appeared was ‘sexual harassment in Egypt.’ The accounts and testimonies given by women on their own experience of sexual violence are outraging. The crimes of sexual harassment became increasingly furious during the demonstrations of November 2012. During that period, nineteen cases of rape and sexual assault have been documented according to Nazra for feminist studies.¹ Women faced these violent gang rapes while most official and unofficial parties showed weak denunciation of the incidents not to mention taking an action against it.² Feminist NGOs such as Nazra found throughout their research and direct contact with victims that these cases of assault and rape all follow a similar pattern and style; the perpetrators mostly targeted women who were either participating in political demonstrations, women who passed by during these demonstrations, as well as women from anti-sexual harassment teams that were present in Tahrir square.³

The incidents expanded more during the second anniversary of the Egyptian revolution, particularly during the 27th and 28th of January 2013. Women were abducted at the exits of the October Bridge at the heart of Cairo.⁴ According to an activist Hussein El Shafei, the manner by which mob sexual assaults took place in the square is the following: a group of men usually

¹ Nazra for Feminist Studies , Position Paper on Sexual Violence Against Women and the Increasing Frequency of Gang Rape in Tahrir Square and its Environs (4 Mar.2013), *available at* <http://nazra.org/en/2013/02/position-paper-sexual-violence-against-women-and-increasing-frequency-gang-rape-tahrir>.

²*Id.*

³*Id.*

⁴*Id.*

creates two lines and then “begin snaking through the square” in an attempt to find the victim as they chant; their target was typically that of one or two women standing alone.⁵ Once they find their victim, these men would create a u-shape, and trap them inside as they complete a circle around them.⁶ Other activists elaborated, and outlined that the first circle surrounding the woman and /or women begin to beat and strip her; the second circle of men would claim that they want to help her, while the third circle of men around her are primarily there to distract other people from the assault taking place.⁷ One of the Nazra for feminist studies researchers asserts that there is a division of labor among the attackers as one of them takes her phone and watch, one takes her shoes off, while another one takes her trousers off.⁸

One of the women who faced such assault had her case documented by Al – Nadeem Center for Rehabilitation of Victims of Violence. In her live testimony on the incidents of the 25th of January Revolution, Nahla Anany stated that she was heading to Talaat Harb square to participate in a mostly female demonstration, which also included Azhar sheikhs, calling against the Muslim Brotherhood and President Mohamed Morsi while simultaneously supporting the Al-Azhar and the Mufti.⁹ On the assault, Anany says:

⁵ Yasmine Fathi, The circle of hell: Inside Tahrir's mob sexual assault epidemic, AHRAM ONLINE (21 Feb. 2013), *available at* <http://english.ahram.org.eg/NewsContent/1/64/65115/Egypt/Politics-/The-circle-of-hell-Inside-Tahrirs-mob-assault-epid.aspx>.

⁶*Id.*

⁷*Id.*

⁸ Al-Nadeem Center for Rehabilitation of Victims of Violence, Live Testimonies on Sexual Torture in Tahrir Square and Surrounding Neighborhoods (4 Mar. 2013), *available at* <https://alnadeem.org/en/node/426>.

⁹*Id.*

Similar to what usually happens during predominantly female demonstrations; there were young men who volunteered to protect us by forming human shields around us. Once we reached the square crowds started to surround us and I do not know if it was out of curiosity or other reasons relating to the events that took place afterwards. In an instant, the beatings and attacks commenced and the Sheiks who accompanied us from Talaat Harb were nowhere to be seen.¹⁰

Another female participant in the same demonstration testified and narrated her own experience saying:

What happened was not merely sexual harassment; it was an intentional move to scare women from the political life and from Tahrir Square... Azhar scholars joined the march and said a few words about Islam's message of respect for women. We chanted in support of their words and then continued to march to Tahrir Square... A group of people began to circle around us... Those circling around us said they were just trying to protect us as demonstrators; that they were on our side. As we approached the square more people began to join the group that was circling around us and so the violence began, they divided us and a number of different circles began to group around the divided groups of protestors.

They began to harass us .They beat up my friend Rawya and there was an attempt to break her arm and some of her other body parts... they choked me, probably trying to terminate my voice...they put their hands in my pockets... another girl they pulled and assaulted over and over horridly.¹¹

¹⁰*Id.*

¹¹*Id.*

Street harassment and sexual violence has not only been localized in Tahrir square neither has it begun there. The same tactic to intimidate women was used in 2005 in front of the journalists' syndicate when female activists were harassed and stripped by national security forces, while the police watched.¹² Among activists and journalists was one editor in chief of a weekly newspaper who said described the assaults as an “unforgiveable mistake, a shame that the government will never erase.”¹³ The same incidents occurred again during the transitional period when the Supreme Council of Armed Forces (SCAF) was ruling.¹⁴ A study conducted in 2008 by the Egyptian Center for Women's Rights disproved the belief that there is a link between how women dress and sexual harassment in Egypt (the common belief that women who do not dress appropriately are most likely to be harassed) since 72.5% of the participants they surveyed for the study were veiled.¹⁵ Incidents and statistical figures such as the previous show how misogyny has been created and reproduced by a system that exercises power through violence.

Even after these sexual assaults have taken place during protest, their male counterparts saw the effects that females were facing as burdensome; the main objective was to let the state succumb to their demands; sexual violence was not one of the reasons or concerns as to why these people were protesting in the first place. These women although have played a huge part in 25th of January revolution, they are left unseen; they are not part of the history being made. For although individuals have a free will and ability to make choices and write their own history,

¹² Jailan Halawi, Women in Black, AL-AHRAM WEEKLY ONLINE (Jun. 2005), available at <http://weekly.ahram.org.eg/2005/745/eg12.htm>

¹³ *Id.*

¹⁴ Al-Nadeem Center for Rehabilitation of Victims of Violence *supra* note 8.

¹⁵ RASHA MOHAMMAD HASSAN, SEXUAL HARASSMENT: FROM VERBAL HARASSMENT TO RAPE 16 (2008), http://egypt.unfpa.org/Images/Publication/2010_03/6eeeb05a-3040-42d2-9e1c-2bd2e1ac8cac.pdf.

these choices are shaped by the system we have been given, and can as in this case have outcomes that might have not been desired or intended.

The same drive for misogyny is inherent in a system of governance that seeks to maintain the model of a neo-colonial state. As such women who live in such a state need not only a punishment of the perpetrator. There is also a need for a judicial system that is not male-oriented and biased, for an economic system that is not conditioned by neo-liberalist policies and a deficit for yet another loan from the International Monetary Fund (IMF).¹⁶ Such economic policies had and continue to have its most adverse impact on the poor and especially the women of this segment of the population. Sexual violence and harassment became a source of power for those who were silenced; women either were confined to the domestic sphere or had to deal with the normalized misogyny every day in the public sphere in order to sustain themselves. Even those who raised their voice were not heard by parliamentarians, judges, prosecutors, or state officials, as these too derived their power from misogyny and sexual violence against women.

As a theoretical framework for the argument of this paper, I am using Susan Marks' work "False Contingency."¹⁷ The term is a result of examination of Robert Unger's false necessity. Necessity here implies the existence of a constraint "pointing out to the existence of external forces that mould, structure or check... the constraint rises to the level of compulsion so that what is necessary is fixed and unavoidable, and must simply be accommodated, as it cannot be altered."¹⁸ It becomes fixed and unavoidable because of reasons that have to do with God, nature,

¹⁶ Philip Rizk, *Egypt: the Necessity of Revolutionary Violence*, ROAR MAGAZINE, (April 7, 2013), available at <http://roarmag.org/2013/04/egypt-violence-revolution-state-collapse/>.

¹⁷ Susan Marks, *False Contingency*, 62 CURRENT LEGAL PROBLEMS 1, 1-21 (2009).

¹⁸ *Id.*, at 6.

or convention. This is how misogyny and sexual violence in the Egyptian society have been portrayed by the international world order and prominent feminists, where misogyny formulates part of the natural reality of this community, a reality from which women in this society need to be liberated and saved.

Behind this false necessity stands Contingency which is conceptualized as:

Something that may or may not happen. This could be because it is dependent on some prior event, the incidence or timing of which is indefinite...or it could simply be because there is no scheme prescribing, proscribing, or otherwise influencing its occurrence... the emphasis is thrown on chance, accident, and all that is random, indeterminate and up in the air.¹⁹

False contingency in this case would be to look at crimes of sexual violence in Egypt as solely an individual responsibility of the perpetrator. Studying the deeper causes of crime which is the aim of this paper does not necessarily mean denying the moral responsibility of individual offenders. In his book 'What is History' E.H. Carr outlines that history does include facts about individuals, yet these facts are not always about actions performed in mere isolation, nor are they always about conscious motives or willed outcomes.²⁰ It can be argued thus, that misogyny and sexual violence in Egypt stems from a system that exploits, and wants to exercise power, since as Rizk quotes in his work, Charles Wright Mills, an American sociologist; "All politics is a struggle for power; the ultimate kind of power is violence."²¹ This system has deliberately made women invisible and has given men the capacity to further exploit and abuse them.

¹⁹*Id.*

²⁰*Id.*, at 5.

²¹ Rizk *supra* note 16.

Nazra for feminist studies has even emphasized how the issue of sexual violence “transcends the isolated incident (rape) and the location (Tahrir Square and demonstrations) to comprise sexual violence as a crime faced by women from all walks of life every day, whether in the street, at work, or in any public capacity.”²² Such violence although targets all women in the Egyptian society, affects them differently in respect to their personal experiences, social values, psychological capacity, and socio-economic status. Such violence is interconnected with economic and judicial violence, where all three cause and reproduce each other.

Gender and Law:

It is true that the laws that address sexual violence in the Egyptian penal code are not implemented effectively, but they are also ambiguous. Now the reason for this is that they do not reflect or address the delineating social circumstances created and given by the current system that Egyptian women aspire to revolt against and change. Instead we have a constitutional article that stipulates that all men and women are equal before the law.²³ This myth of gender equality present in our constitution is only there to fill a necessary psychological space, a conclusion that was also reached by Culp, Jr. on colorblind laws.²⁴

²² Nazra for Feminist Studies, *supra* note 1.

²³ EGYPT CONST. art. 33. Also *see* principle 5 of the Constitution’s preamble which states that “Equality and equal opportunities are established for all citizens, men and women, without discrimination or nepotism or preferential rights, in both rights and duties.”

²⁴ Jerome McCristal Culp, Jr., Colorblind Remedies and the Intersectionality of Oppression: Policy Arguments Masquerading Moral Claims, 69 *NEW YORK U. LAW REV.* 165, 162-196 (1994).

Sexual harassment has not been directly addressed under the Egyptian penal code. Nevertheless, the code constitutes of three articles that deal with indecent behavior, insulting, and sexual assault:

Article 306

Stipulates that *all types of insults* which include molesting a female in *a manner offending her modesty by words or deed* on a public road or a *frequented place* as well *outraging modesty* over the telephone shall be penalized with fines being no more than 1000 LE for all types of insult, or by imprisonment for a period that does not exceed more than 1 year (This is considered to be a minor crime).²⁵

Article 278

Whoever commits an act in public a scandalous act against *prudency* shall be punished with detention for a period not exceeding one year or a fine not exceeding three hundred pounds (This is considered to be a major crime).²⁶

Article 268

Whoever *indecently assaults* a person by force or threat, or attempts such assault shall be punished by hard labor from three to seven years. If the victim has not attained 16 years of age, or the perpetrator is from the victim's ancestors, or those in charge of rearing, observing, or having power over her, or is a servant to her or the aforementioned persons, he shall be punished by temporary hard labor. If both condition re combined, the felon shall be punished by permanent hard labor.²⁷

²⁵ Law 58, art. 306 (1937).

²⁶ Law 58, art. 278 (1937).

²⁷ Law 58, art. 268(1937).

I have italicized in the above three articles the words which I believe give a judge a considerable amount of discretionary power. The question of whether the law should be clearer on the incidents that are “offending... modesty” is legitimate, but the law cannot encompass or forecast all possible situations in which such “insults” take place. In short, the law cannot protect plaintiffs from judicial and state violence.

Questions of the relationship between gender and law are important in this discussion. Questions such as the role of “law and legal institutions in defining male and female in society,” questions on gendered law and what kind of liberations and limits are set by the law “based on the sex of the subject” are all questions that play a crucial role in the development of feminist legal theory.²⁸ To Catherine McKinnon, “law [can] reflect and enable political and social institutions of inequality; women get unequal pay, do disrespected work, and are sexually abused.”²⁹ Those inequalities precede the existence of the law, and as the law emerges in the liberal state that legitimates non-interference, the state can only correct the inequalities made during prior legal action.³⁰ Even though her critique holds true, feminists such as McKinnon assume that women’s experiences and suffering is the same across all cultures, races, and classes. Even though Mackinnon and others attempt to represent all women, they consequently erase the experiences and sufferings of women who are not similar to them, as they believe there is one woman of legal feminism, that there is one unified woman’s point of view of law.³¹

²⁸JUDITH E. TUCKER, *WOMEN, FAMILY, AND GENDER IN ISLAMIC LAW 2* (Cambridge University Press 2008).

²⁹*Id.*, at 6.

³⁰*Id.*

³¹*Id.*, at 7.

To give an example, let us consider the recent Muslim Brotherhood (MB) statement denouncing the United Nations (UN) declaration for violating Shari'a principles. This move shows how the state's need to exercise misogyny drives a particular vision of Islam and Shari'a. This vision further seeks to abuse Egyptian women by calling on Egyptian women's organizations to commit to "their religion and morals of their communities and the foundations of good social life and not be deceived with misleading calls to decadent modernization and paths of subversive immorality."³² This state assumes a determinacy of the principles of Islam and Islam itself; it causes women to have to make a choice between either their morals and values or their freedom and dignity. As demonstrated earlier in this paper, it can be seen how female protestors and Al-Azhar Islamic institution both protested against the MB; an institution that claims that it seeks to adhere and comply with 'Shari'a principles.'

On Economic, State Security, and Judicial Violence:

Economic, judicial, and sexual violence have all been counter-revolutionary forces used by the Egyptian State. They have been used by the state in Phillip Rizk's words to "crush violent opposition."³³ This violent opposition or the violence of decolonization is viewed by Frantz Fanon in 'The Wretched of the Earth' as "'a program of complete disorder."³⁴ This violence destroys both the colonizer and the colonized.³⁵ In her article nevertheless, Samira Kawash examines two types of violence that Walter Benjamin distinguishes between them as being divine and mythical. Kawash writes and describes divine violence as 'violence against

³²Muslim Brotherhood Statement Denouncing UN Women Declaration for Violating Sharia Principles (Mar.2013), <http://www.ikhwanweb.com/article.php?id=30731> (last visited May 17, 2013).

³³ Rizk *supra* note 16.

³⁴FRANTZ FANON : CRITICAL PERSPECTIVES 239 (Anthony C. Alessandrini ed., Routledge 1999).

³⁵*Id.*, at 237-239.

violence... that breaks through and destroys the cycle of mythical violence, the ‘cycle maintained by mythical forms of law.’”³⁶

In contrast to the mythical state which Rizk asserts “uses violence to impose a law that always empowers the sovereign, and crushes the population,” divine violence functions to intervene, and depose; as Kawash outlines, it is not destructive.³⁷ This type of violence rather threatens the existence of a world “that has determined the value and distinction of means and ends.”³⁸

In her response to the feminist critique of liberalism, Martha C. Nussbaum asserts that the egotistic motives, individualism, and self-interest that characterize many liberal thinkers and states today are not at a universal representative of the liberal tradition in its entirety.³⁹ For even the prominent thinkers and economists such as Adam Smith and John Rawls emphasized that persons are motivated by both egotistic and non-egotistic motives to fulfill the interests of both the single agent and everyone else’s interest.⁴⁰

This prevailing type of liberal state that encompasses mythical laws which do not reflect social reality such as gender equality, and social justice, and independence of judiciary is a system that seeks only to empower itself. For such a system had emphasized equality in terms of competition rather than care; it emphasizes a unity of the society that only exists in the head of people. The Egyptian state that the MB inherited from Mubarak sustains the same mode of governance.

³⁶*Id.*, at 245.

³⁷ Rizk *supra* note 16.

³⁸FRANTZ FANON: CRITICAL PERSPECTIVES *supra* note 34, at 240.

³⁹MARTHA C. NUSSBAUM, SEX AND SOCIAL JUSTICE 55-62 (Oxford University Press 1999).

⁴⁰*Id.*

In terms of economic violence, the MB state continued to reinforce the neo-liberalist policies that existed in the Mubarak-era and even before than that.⁴¹ In the course of privatization these policies allowed statesmen and state elites to sell public companies for their partners and allies, but also caused the widening of the gap between the rich and the poor.⁴² These policies have been supported by International Financial Institutions (IFIs).⁴³

As B.S. Chimni depicts in his work, third world approach of international law (TWAAIL), which also governs IFIs; the author perceives the autonomy of international organizations contemporarily as “a function of the fact that they do not seek to advance the interests of one or another advanced capitalist state, but that of the of the global capitalist system in its different phases.”⁴⁴ The mandates of international organizations, Chimni argues, have been broadly constructed to allow for interpretations by the powerful states that are conducive to and practical to the needs of a global capitalist class.⁴⁵ In his work, Chimni shows how marginal reforms of IFI lending structures and policies enhanced their legitimacy yet simultaneously maintained their lending power and supervision of polities and economies of the developing world in a time of economic crisis.⁴⁶ Throughout his work he shows how barely any considerable change has taken place to affect “conditionalities” prescribed to borrowing states.⁴⁷

⁴¹ Rizk *supra* note 16.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ INTERNATIONAL FINANCIAL INSTITUTIONS AND INTERNATIONAL LAW 33-34 (Daniel D. Bradlow & David B. Hunter eds., Kluwer Law International 2010).

⁴⁵ *Id.*

⁴⁶ *Id.*, at 61.

⁴⁷ *Id.*, at 35-61.

The same can be seen in post-revolutionary Egyptian state today, where MB business leaders showed support to economic policies conditioned by the IMF for the loan Egypt now needs for the deficit, and attributed the failure of these policies to the corruption of individuals from the old regime.⁴⁸ In order to reduce the deficit however and ensure good economic standing, President Morsi's government will only be favoring these results over the hardship, cutting of subsidies, rise of inflation, and higher sales taxes which will cause even more inequality, the reason why people revolted in the first place.⁴⁹ The same president asserted in a speech which he gave in Labour Day, that Egyptian workers are "true partners in achieving industrial and economic development."⁵⁰

This tactic of continuance borrowing is explained in Rizk's article by a political economist, Harry Cleaver whom he mentions and who says that borrowing was what the sovereign does to suppress further revolt.⁵¹ The IMF is even more determined now for Egypt to pay while in dire economic situation "a dictator's debts."⁵² This is contradicted by the proposed debt relief package during the time when the United States sought help from Egypt in invading Iraq.⁵³

While the state continues to support and infuse such actions, but also ignore the consequences of such actions on the population, it comes as no surprise that sexual violence and

⁴⁸ Rizk *supra* note 16.

⁴⁹ *Id.*

⁵⁰ Basil El-Dabh, Morsi addresses workers ahead of Labour Day, Daily News (30 Apr. 2013), available at <http://www.dailynewsegypt.com/2013/04/30/morsi-addresses-workers-ahead-of-labour-day/>.

⁵¹ Rizk *supra* note 16.

⁵² *Id.*

⁵³ *Id.*

abuse become another form of violence by which the state sustains so called sovereignty. Indeed, such a system has gained and built its autonomy from the plight of its people, from the injustice incurred to people by the law and the judicial system, and from the sanctity of the bodies of Egyptian women.

On instances of judicial violence, Rizk writes that laws are remnant from the old regime, courts, and prisons, and the security sector remain controlled by “Mubarak’s old guard.”⁵⁴ One particular example of judicial violence that is quite illustrative of the hypocrisy of the MB system of governance is that of when 31 people on 19th January 2013 were arrested; these people were standing in front of a court in Alexandria that postponed the trial of police officers accused of killing protestors in Alexandria during the revolution.⁵⁵ These people were illegitimately tried, sexually assaulted and tortured in prison; ten of the 31 were under the age of eighteen, while one of them, a cancer patient, was prevented from receiving treatment during his stay in prison.⁵⁶

⁵⁴*Id.*

⁵⁵*Id.*

⁵⁶*Id.*

Concluding Remarks:

All of the above and much more happened and continue to happen under President Morsi's system. Time and space constraint has only allowed me to address a few of the issues, and examine only a few sources. Even though what needs to be done to protect women from sexual violence in Egypt remains hard to answer, yet contemporary feminists, lawyers, historians, economists, would have a more positive impact if they were aware of this mythical cycle of violence, which hides behind notions of autonomy, liberty, agency, equality, and justice. In Susan Marks' words:

I have suggested that, as scholars of law, we tend to give considerable attention to vindicating the contingency of history, but rather less attention to vindicating the contingency of history, but rather less attention to its necessary or determined aspects. As a result, a form of 'false contingency,' as I have called it, is left unchallenged, according to which the injustices of the present order are made to appear as though they were random, accidental and arbitrary. And if they are random, accidental and arbitrary, then the process of changing them become every bit as remote as if they were fated.⁵⁷

Sexual violence is not an epidemic, or a phenomenon, that needs to be tackled just by effective law, education or awareness; presence and perpetuation of sexual violence is a manifestation of how a system maintains and exercises power. In this case not only sexual violence needs to be undone, but the violent system too.

⁵⁷ Marks *supra* note 17, at 22.