



**Mariam Mecky**

## **Challenging the Bargain: Feminist Mobilization, the State and the Criminalization of Gender-Based Spousal Violence in Egypt**

Feminist scholarship has extensively tackled women's and feminist mobilization engagement with the law and the state (Amar, 2011; Basu, 2000; Brown, 1992; Hasso, 2014; Herr, 2014) among numerous others. Some scholarship has remained critical of engaging with the state, warning against relying on the state for women's protection particularly an authoritarian government (Hasso, 2014). Hasso argued that women activists who bargain with the state "unintentionally" reproduce patriarchies, as the patriarchal system operate in malleable forms (2014, p. 110).



As part of my MA, I took a course on gender, sexuality and law where there was a very popular debate of whether we should engage with the law, or not. The dominant argument was that the law reproduces heteronormative essentialized gendered, sexualized and racialized bodies and subjects, consolidating power hierarchy in society, and thus many argued against engaging with the law. While this is a legitimate debate, I found it to be a privileged conversation. As a racialized and gendered subject, a non-citizen brown woman who identifies as a feminist in a western academic setting, I told my professor in the last class that I regard such discussion as a privileged one, because I am subjected to the authority of the law whether I like it or not, despite agreeing about its shortcomings. I said if I violate my visa regulations, by merely staying longer in the country incurring no harm on anyone, I shall be deported at the least. As a woman, I am left with no choice but to challenge the law, otherwise I am complicit in consolidating it if it remains uncontested by choosing not to engage with it.

Such experiences triggered many of these already existent internal debates, and prompted me to write this piece to further reflect on feminist engagement with the state. I had already been struggling with this debate constantly as an Egyptian feminist, particularly having worked in an NGO and as a journalist in Egypt. When is engaging with the state considered compliance, and to which extent is boycotting the state resistance? To what extent is engaging with a masculinist state feminist, and when does working with the state become a concession? I dwelled on these questions persistently at the time, thinking of my feminist values and my resistance to the patriarchal structure. The personal is political after all, as various feminist scholars have highlighted as Enloe (2014).

So, given my background and all the political developments happening in Egypt, particularly after the revolutionary moment of 2011, the consecutive regimes and their varying stances towards gender issues, this question of engagement with the state has become more pressing. I spoke to several feminist activists in Egypt and in the Middle East region, and the varying replies left me seeking further discussion.



*“The question of laws is a problematic question for feminist movements, but for us what happened in Tahrir [square] taught us that laws are important; it sets tone and stigmatizes societal not only legal for the perpetrators of these crimes..”* Mozn Hassan, an Egyptian feminist activist, said (Interview with Mecky, 2018).

Hassan’s quote epitomizes this important debate in feminist scholarship and activism around the usefulness of legal mobilization and amendments for feminist causes. In the Egyptian context, this quote highlights a feminist stance towards legal mobilization that reflects complexity of feminist and women’s agency and subjectivity and how it is intertwined with political dynamics.

This piece, hence, examines the mobilization of the feminist and women’s movement and its relation with the state and the law around gender-based spousal violence. Focusing on Egypt, my paper aims at capturing feminist activists’ strategies of dealing with the state in the current complex dynamics of the political arena, but also in the context of a unique history of Egyptian feminists’ engagement with gender-based violence in the private and public spheres. In doing so, I attempt to provide nuances on such matter that is often disregarded in many literature, through centering feminist activism on the ground in the global south. Within that process, I engage with the debates around the usefulness of working with the law and the state at large. I seek to discuss the tensions among women and feminist civil society mobilization, including non-governmental organizations (NGOs), initiatives or other modes of organizing on gender-based spousal violence. I attempt to highlight the complexity, heterogeneity and tensions of mobilization and agency and contribute to the wider conceptual debates. Thus, I pose the question of how feminist and women’s rights groups engage with the state, work with it or challenge it to mobilize against gender-based spousal violence.

### **Scope and Methodology of the Research**

The scope of my research is feminist and women’s rights civil society efforts and mobilization in Cairo towards criminalizing gender-based spousal violence in Egypt in 2018. I have particularly selected feminist and women’s mobilization towards gender-based spousal violence in this case



study due to its blatant disregard from mainstream public discourse (Abouelnaga, 2015) and legal framework in Egypt. Gender-based violence in the public sphere has been under the spotlight compared to the private sphere in the mainstream public discourse after 2011 (Abouelnaga, 2016; Skalli, 2014), given largely to the developments in the political public domain after 2011. Domestic violence at large is not criminalized by Egyptian law despite efforts since the 1990s except for female genital mutilation (FGM) (Mecky, 2016). This makes it particularly interesting to examine feminist mobilization on gender-based spousal violence in the Egyptian context.

I conducted six interviews with feminist and rights activists in Egyptian civil society working on gender-based violence over the course of July and August, 2018 in Cairo, Egypt. I attempted to include a number of organizations that work on the matter and diversify the interviewees affiliated with these groups, in terms of age, modes of operation, NGOized or not, location, and identification as feminist, women or rights activists. I selected non-governmental entities as the relation and engaging with the government would be rather different if the organization is quasi-government as the National Council for Women (NCW) for instance which is not within the scope of this research. The organizations interviewed in this research; one established in 1980s, three in 1990s, one in 2007 and the last one in 2016. Five out of the six groups included are registered non-governmental organizations and one is an initiative. The following list includes the interviewees names, their positions and affiliations and abbreviations if any; Michael Raouf, Lawyer at El Nadeem Center for Rehabilitation of Victims of Violence, Mozn Hassan, Director and Co-founder of Nazra for Feminist Studies, Nada Nashaat, Advocacy Coordinator at Center for Egyptian Women's Legal Assistance (CEWLA), Nehad AbolKomsan, Chairwoman of the Egyptian Center for Women's Rights (ECWR), Nevine Ebeid, Member and coordinator of the task force for a unified law against violence at New Woman's Foundation (NWF) and Nayera Amin, Coordinator of *Birah A'amn*, roughly translated as Safe Haven.



## **Setting the context**

Since the revolutionary moment in January 25<sup>th</sup> 2011 that overthrew former president Hosni Mubarak after 18 days of mass protests nationwide, Egypt has witnessed an unstable period of political transition that impacted the dynamics that feminist groups operate in, and in turn, certainly influenced their tactics. The Supreme Council for Armed Forces (SCAF) assumed power afterwards till the election of Islamist President Mohamed Morsi in 2012. The overthrow of Morsi was announced on July 3, 2013, by the then defense minister in Morsi's government Abdel-Fatah El-Sisi representing the military. Adly Mansour, the president of Constitutional court, was appointed interim president as according to the constitution. El-Sisi ran and won the presidential election in June 2014 (Maher, 2014). In April 2018, El-Sisi was announced to have been re-elected for a second term (Ahram Online, 2018). Regarding the legislative branch, Egypt's Parliament was dissolved in 2011, a new one was elected in late 2011 and later dissolved in 2012 on a legal technicality till the election of the current parliament in January 2016 (Essam El-Din, 2016).

While the Egyptian civil society has often operated in complex and restrictive dynamics, before 2011, the public domain was further restricted after (Naber & El-Hameed, 2016). In recent years, the situation has deteriorated with the new law to regulate the work of civil society and the cases of illegal foreign funding against NGOs (Brechenmacher, 2017) despite being ordered to be revisited after ratification in May 2017 (Essam El-Din, 2018). Till this piece was finalized in May 2019, the law was not amended.

Meanwhile, there were several persecution cases against NGOs that started after 2011 yet intensified after 2014 in a case 173 of 2011 brought by the government (Amnesty International, 2016). In 2019, organizations continue to be accused of receiving illegal foreign funding, resulting in asset freeze, travel bans and shut down of several rights organizations and activists in Egypt that took off in 2016. Three of the surveyed groups in this research are affected by the case: the head of CEWLA, members of Nazra and the organization itself and El-Nadeem founders. El-Nadeem was also shut down from authorities on the claim of a licensing breach



(Michaelson, 2018). Nonetheless, despite such restrictions and challenges, the organizations remain in operation (Interview with Mecky, 2018). Such circumstances impact in several manners feminist activists' strategies to engage with the law and the state at large as demonstrated in the next sections.

### **History of Mobilization, the state and the law**

Starting from late 1980s and 1990s, there has been a proliferation in the establishment of women's NGOs, with the wave of NGOization (Abdelrahman, 2004; Abouelnaga, 2015; Hatem, 1992). In the 1990s, some women's groups began to contest the legal and political structural issues that hinder women's access to the public life while challenging the public-private space divisions by shedding the light on family issues in their narrative. In that process, they have politicized women's issues that set them apart from the "de-politicization" of women's issues under the regimes of Abdel Nasser and Sadat (Pratt, 2005, pp.140-141). Afterwards, in the 2000s, human rights language has prevailed in the rhetoric of women NGOs (Abu-Lughod, 2010, p.5). This period also marked the governmentalization of rights activism, with the establishment of the quasi-governmental body the NCW in 2000 and headed by the first lady Suzanne Mubarak (Abu-Lughod, 2010; Hatem, 2016).

Since then, legal mobilization has been a central strategy by women and feminist groups in Egypt to enact social change. While the state has attempted to co-opt many of these campaigns, the success of these mobilization can be largely attributed to the groups; notably the criminalization of FGM in 2008, enacting of Khul', no-fault divorce for women, law in 2000 and recently the criminalization of sexual harassment in 2014. While the political domain, the nature of the issues as well as the scope of the law vary, these three campaigns shared common grounds; as collective actions, lobbying and working with different state agents whether legislators, NCW, ministries or other entities (Roushdy, 2016; Tadros, 2016; Zaki, 2017).



### **Mobilization around gender-based spousal violence**

During my research on spousal violence in Egypt, I realized that there was one significant dominator that is important to reflect on. The organizations surveyed do not approach spousal violence as separate from gender based violence in both private and public spheres. Their engagement stems from a feminist perspective or a rights-based perspective, asserting the family as a primary site of struggle against violence. In the words of Nayera Amin, from *Birah A'amn*,

*“It starts at home; domestic violence hinders women and girls to accessing the public sphere”*  
(Interview with Mecky, 2018).

Thus, they address gender-based domestic violence comprehensively encompassing various forms of domestic violence including spousal and varying from marital rape, denial of women’s inheritance to forced marriage and beating. The six groups employ various strategies on gender-based violence; from knowledge production to law drafting and mobilization to awareness campaigns and service providing.

All groups at one point engaged with the legal framework and mobilized for a law to criminalize violence in the private sphere. Despite the current political circumstances, they all assert the need for working with the law to enact social change. The question, then, becomes a matter of when and how to advocate for the law, not whether to. The law, in that sense, is perceived as an agent of transformation by all interviewees, yet with different degrees.

CEWLA is an Egyptian NGO founded in 1995 and working on raising awareness and providing support services. A closer look at CEWLA showcases how they strategize in approaching the state: while they cite restrictions from the government, they still work in a taskforce to criminalize gender-based violence out of a belief of the importance of social change. Nada Nashaat aptly said,

*“Legal amendments are very helpful for feminist causes even if it wasn’t implemented immediately, you created the discourse of what you want to do, at least, that in the popular*



*conscious or community awareness, people will build on such awareness, that this is a crime.”*  
(Interview with Mecky, 2018).

Hence, the debate becomes about usefulness and a space to engage with the state to bring about social change. And so, the political dynamics play a major role in determining their approach to the law and legal mobilization.

My research showed that there are certain degrees and limitations to which any group would collaborate with any of state bodies or entities. In that sense, feminist and women’s rights groups engage with the state in a dynamic and fluid manner, simultaneously working with it or challenging it in order to mobilize against gender-based spousal violence. This approach is governed by several factors: their political beliefs, restrictions on the public domain, case priorities and usefulness of engagement with current state bodies. As a strategic move, they separate between the different branches and bodies of the states, whether the executive, legislative or judiciary or within any of those. For instance, while a group would deal with the legislative branch, it will not work with the NCW, the quasi-governmental body.

The strategic approach of the New Women Foundation (NWF) exemplifies the former matter. The group took part in the meetings with the NCW on the national strategy to combat violence against women. However, it discontinued and withdrew right after the murder of Shaimaa El-Sabagh, an activist killed by policeman in a sit-in on the fourth anniversary of January 25<sup>th</sup> (Ahram Online, 2015). Ebeid said,

*“There was the killing of Shaimaa El-Sabagh and the interior ministry was part of it [the committee], how could we sit as a rights organization talking about violence in the public sphere while a woman was murdered because of protesting,”* (Interview with Mecky, 2018).

However, the NWF still works in a taskforce to push for a unified law against gender-based violence. At the time of the interview, the taskforce was in communication with a female member of Parliament (MP) to present and push for it in parliament (Interview with Mecky,





2018). Meanwhile, this involvement also depends on the invitation by the state-affiliated bodies for NGOs to take part. In the committee on the strategy; only ECWR and NWF were invited, out of the five NGOs in this research according to the interviewees. Meanwhile, CEWLA takes part in the taskforce with NWF working with MPs, regardless of not being invited or involved in the NCW strategy meetings (Ibid.).

In contrast, El-Nadeem does not engage with the law or any state agents today out of the belief that there is an absence of political will, in spite of being one of pioneer NGOs to work on a law against gender-based domestic violence since 2005. Yet, it provides support for organizations that do, like the NWF, which is the coordinator NGO of the taskforce formed to criminalize gender-based violence.

El-Nadeem worked on a bill asserting that gender-based domestic violence is a social matter and a human rights violation rather than a private matter (El Nadeem, 2012) from 2005 till 2010 but got in limbo after the dissolution of the 2011 (Mecky, 2016).

Meanwhile, Hassan, who I quoted earlier as she explained the importance of engagement with the law to stigmatize gender-based violence, further talked how the government crackdown impacted Nazra's work and hindered engagement in the public sphere overall. She said,

*“The case separated us from all this; there are good women and there are bad women [referring to Nazra]; don't do like them, we are now the example... Personally, I don't think there is a space of engagement in the very first place, the space, that existed in the previous years, is not allowed now...”* (Interview with Mecky, 2018).

The group's decision to engage with the law is certainly impacted by the crackdown on the public domain and against them, as well as the state's unwillingness to work with them or allow them to work in that matter. In that vein, the politics of respectability, as coined by Higginbotham (1993), plays a role, where the bad woman as the female protestor against the



government, who does not abide by the “socially acceptable” attitude of a woman in contrast to the good woman, the middle class docile woman, is considered respectable (Amar, 2011).

Women’s bodies, in that process, continue to be sites of contestations where the struggle is not only over identity but encompassing political hegemony, cultural domination and authenticity as well. (Hafez, 2016). In this engagement with politics and defiance against the government, female protestors and women mobilization at large defy modes of respectability. As El-Shakry (2013) argued, Egyptian feminists today reject the patriarchal bargain that has provided by the state and state feminists historically; where existence in the public domain requires disengagement with politics and a certain commitment to modes of respectability.

Meanwhile, *Birah A’amn*, which originally started as a campaign calling for a law, and working on improving El-Nadeem bill to acknowledge all forms of gender-based domestic violence in the different local communities, changed their approach in 2018 to focus on outreach out of the belief that awareness on the ground is needed. In the words of Amin talking about *Birah A’amn* and how it launched in 2015 after the revolutionary moment,

*“A member started [the campaign] off with a hashtag with freedom for the detainees inside Egyptian homes as the name was related that detention is not only by the state but also some families detain their children and they exercise [control] similar to the state and people object to state practice, however they do not object to this when parents [or families] practice saying it’s their right and normal and when you request help from police, they respond you must have done something wrong to your family,”* (Interview with Mecky, 2018)

*Birah A’amn*’s story reveals how their awareness of the importance of violence about the private sphere is related to their subjectivity and political experience post the revolutionary moment. In this sense, it has shifted their perspective to combat gender-based domestic violence, challenging the public-private binaries.



Amin went on, “*Two years later we realized we shouldn’t only have a campaign nor just focus on the law; it needs awareness on the ground and we work on many levels; where the law is just one level,*” (Interview with Mecky, 2018).

Sorbera (2014) asserts how feminist activism today in Egypt rejects different manifestations of patriarchal violence by political state and non-state actors. Studying feminism and revolution in Egypt after 2011, she elaborates that such rejection is an enduring milestone of the Egyptian feminist movement challenging local and colonial actors since its evolution. In her study, she states that feminist mobilization has developed from decentralized cities producing a nuanced “understanding of gender and class, which will affect the political sphere.” (p. 73). This initiative, among other collectives, epitomizes the complexity of this feminist mobilization; encompassing a political conscious and awareness, aware of local contexts, establishing alliances with other initiatives and in challenge of all forms of patriarchal violence by state and non-state actors (Interview with Mecky, 2018).

Meanwhile, ECWR, an Egyptian NGO focused on legal advocacy since its establishment in 1996, is committed to working on the law at this point of time on the belief that there are various grounds to work on gender issues in the law adding that it is important to seize opportunities with the government.

The above stances illustrate how different factors determine their engagement with the law, state institutions or representatives, despite their reiteration on the importance of the law at large. Political developments including political leanings, space of engagement and prospects of change or political will certainly constitute factors for engagement. All groups have shown certain level of engagement in politics as a continuous thread to the break of political disengagement of late 1990s and the attempted bargain of the Mubarak regime. Coalitions and organized collective actions remain essential tools of engagement, where organizations form coalitions and alliances with those with similar political leanings or common goals or shared interests, similarly as previous legal mobilization campaigns as FGM taskforce. All surveyed



groups took part in a collaborative project, statements or campaigns with other groups (Interview with Mecky, 2018).

The current efforts and work of Egyptian feminist groups is the recent brick in a long history of advocacy around legal mobilization for social change. In this piece, most notably, the interviewees' responses suggest that their ultimate concern is halting the social acceptability of gender-based violence in the private sphere. In pursuing that end, they exert possible tools of working with the government but with certain limitations that vary as illustrated by the above stances and strategies. In other words, it is not necessarily for protection that they resort to the state and to working on the law, but in order to reduce the social acceptance of gender-based violence. Through the criminalization of a gender-based violence in the private sphere, the state takes a stance against a certain form of violence. This would thus be significant political gain for activists, as the state often neglected its existence through its patriarchal private-public divide. Thereby, criminalization would also challenge this binary. In this regard, the groups aim to employ legal mobilization even if used for state political gains in their pursuit of halting social acceptance.

Nonetheless, their strategies show that while protection is certainly part of the law, it is not central to it. In the sense, Nashaat and Ebeid talked about their comprehensive law to combat all forms of domestic violence against women that is pushed by a taskforce of women's and rights NGOs, in which Ebeid is its coordinator. In her view, she said that the bill, encompasses "*four advantages: definition as broadened it per international conventions, protection, prevention, and shelter condition a social and psychological element for survivors,*" (Interview with Mecky, 2018).

### **Engaging with the law and the state**

The nature of the legal framework itself is contended to play a role in determining feminist engagement and mobilization; where duality of the law is argued to be a doubled-edged sword for women's and feminist activists. Legal frameworks in Egypt and the Middle East and North Africa in general are predominantly characterized with legal plurality as result of most states



being post-colonial states, with only few exceptions as Iran. Criminal law, for instance, in most Middle Eastern countries emanates from Western European laws as well as Islamic Shari'a law and customary law (Zuhur, 2005). Some scholarship contends that the legal framework hinders reform, while others assert that it could be an asset (Abu-Odeh, 2004; Zaki, 2017).

Thereby, activists utilize this plurality of law as a space for negotiation and contestations. While the main objective of the legal system in Egypt during the time of Mubarak has been to consolidate power and legitimacy of the regime, the impact of which is overrated (Brown, 2009, pp. 240-242). Despite such use of the judicial system, Mostafa (2012) said that the judiciary has provided a space for activists to contest state regulations, though rather uncommon, arguing that the constitution and the judicial branch were one of the potential restriction on the regime's power then.

In that vein, feminist and women's activists capitalize on the hybridity of the legal system as a space to push for change. In this manner, they resort to law for disputes with the government such as CEWLA where it filed a case in court against the government for shutting down its shelter and won it. Although the court verdict was not implemented so far and the shelter is not reopened yet (Interview with Mecky, 2018), it strengthens their case and legitimacy on the ground in certain ways.

The law aids feminist and women's activists in combating gender-based violence in the private sphere and thereby they seek to employ it for that purpose. In a centralized state as Egypt, the law is perceived as an authoritative figure, a perception in which they aim to capitalize on. In this manner, they do not expect legal protection from the state but employ the law as a layer of resistance and struggle against gender-based violence. Such process shows, albeit viewing the law as an authority figure, that Egyptian activists approach the law as encompassing, that could be derived from multiple sources including international conventions and reinterpretation of Shari'a for instance, not just state law or practice. The law in that sense cannot be considered as a separate entity distinct from society; yet is perceived as an authority of an impact that paves the



way for change. This demonstrates a rather interesting dynamic of perception and engagement of the law.

The group's engagement with the law showcases their agency: how they navigate working with the state based on their perceptions of its usefulness, their own political beliefs while acknowledging that the state is not homogenous. Some would engage with certain limitations as NWF, and others as El-Nadeem would refuse dealing with state agents in the belief that there is no space or will to enact change. In this regard, the law is not an end but a tool for social change. In employing the law as a strategy not as an end, they acknowledge the limitations of the legal framework. This approach of legal mobilization also does not negate or deny the shortcomings of the law; as state agents are often a problem or application of the law as all interviews implied. In particularly cases of violence against women, police officers may sympathize with the perpetrator.

What my research shows is that most groups are aware of the pitfalls of depending on the law solely for protection of women, but to halt social acceptability. Protection is often attached to certain restriction, as Hasso (2014, p.108) argued. Yet in some cases, many refuse such restrictions of operation and navigate it differently. As a result, some of them have faced a crackdown or increased restrictions by the authorities, including three of the organizations interviewed. As the state recognizes that some women's and rights groups no longer agreed to the bargain of political disengagement, so they assert the mainstream rhetoric to either with us or against us. This problematic rhetoric results to persecution of feminist and rights groups as state enemies and foreign agents. This has been particularly the case after 2011 as the state has been attempting to reinforce its hegemony and legitimacy. This is also highlighted by the new civil society law and case 173 of illegal foreign funding. Such approach shows also how the public-private divide is a hegemonic tool to consolidate power as Abouelnaga (2015) and Amar (2011) argued among others.

The groups, henceforth, attempt to navigate the multiple modes of patriarchy and authoritarianism, and in the process, they aim to capitalize on any space for advocacy. They



recognize that the state is an essential site to contest the patriarchal system as Connell (1990) asserted. Through their strategies, they subvert the patriarchal system. Whereas they accommodate certain spheres as the legal framework and its reproduction of gendered heteronormative subjects, they challenge the state in different arenas as being actively engaged in politics, a matter that consecutive regimes have dissuaded women and feminist movements to do. The criminalization of sexual harassment typifies this; while the groups celebrated, the legal amendment enacted by the human security state, they still acknowledged the role of the regime in instigating politically motivated sexual violence (Interview with Mecky, 2018). In this vein, they have disrupted the system. Moreover, groups mostly defied certain modes of respectability as good women that are docile and passive while bad women are the protestor or in other words challenges power.

The question of limitations of such approach is relevant; whether relying on the law to halt social acceptability replicate and reproduce patriarchy they aim to counter. Through organized collective action that deemed useful to push for social change (Tadros, 2016, p. 275) the groups slowly seek to enact social change not solely legal amendments. Concomitantly, the groups work on gender-based domestic violence disrupts the state attempt to consolidate its hegemonic power. Nevertheless, it still encompasses shortcomings. While examining and highlighting their agency, structural constraints must be acknowledged. They are faced with accusations of being “foreign agents,” an accusation rather common for opposition or protestors against the government. This put the groups at a greater risk of alienation. In a political context where the state attempts to consolidate control on the public sphere; including the media; it shall take measures to not only prosecute such groups but defame as well. In addition, there are also some structural obstacles that exist as a result of NGOization; from reliance on funding to accusations of elitism and professionalization. The crackdown hinders resources such as the case of Nazra and the case of CEWLA; in which most NGOs are impacted even if variably. There is also case of professionalization of activism, an argument that persists among the public, particularly with the defamation case (Abdelrahman, 2004). Thus, through their strategies in dealing with the state, engagement in politics and legal mobilization, they are not only setting new rules in their historical patriarchal bargain with the state, they are contesting the state’s hegemonic power.



\* An Arabic version of this paper was published in the “[Gendered Resistance Publication](#)”

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