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CFJ – Responding to the Call for Input for SR VAWG's report on violence against women and prostitution

To: hrc-sr-vaw@un.org

Distinguished Special Rapporteur on Violence against Women and Girls,

By submitting this report, Committee for Justice (herein CFJ) would like to humbly inform your report to the Human Rights Council, through its analysis and observations on the nexus between the global phenomenon of prostitution and violence against women and girls. To prepare this report, CFJ drew from its extensive experience in documenting human rights violations in the Middle East and North Africa region, but also on a diverse range of public sources, including international and regional instruments, the practice of United Nations human rights mechanisms, and reports of partner regional and humanitarian organizations¹, civil society, scholars, and practitioners.

- **What measures are in place to collect and analyze data at the national level with a view to better understanding the impact that prostitution has on the rights of women and girls? Describe the profile of women and girls affected by prostitution in your country, and provide disaggregated data, where possible.**

Researching and obtaining accurate data on prostitution as well as human trafficking for the purpose of sexual exploitation in Egypt is extremely challenging, largely due to institutionalized social barriers. The stigma associated with prostitution or sex work in Egypt has led to an endemic underreporting and thereby, a glaring gap in credible statistics, rendering the prevention of violence against women and girls in the context of prostitution extremely difficult to combat. While official statistics are lacking, the documentation and reporting efforts of two Egyptian NGOs working exclusively on women and girl's rights as well as prominent International Human Rights

¹ CFJ has gathered significant information on the matter through reports issued by local NGOs including the El-Nadeem Center for the Rehabilitation of Victims of Torture Center (1993) and the Centre for Egyptian Women's Legal Assistance (1995).

Organizations, have enabled CFJ to catch a glimpse on the nexus between prostitution and violence perpetrated against women and girls. A general conclusion reached in the various reports consulted is that no girl or woman would willingly offer their bodies as capital. In most cases, economic hardship, poverty, and limited employment opportunities drive some women and girls towards prostitution as a means of survival.

According to Magda Adly, co-founder of the El-Nadeem Center for the Rehabilitation of Victims of Torture, sex workers should therefore be considered as “[victims of the community](#)”. Having spent a year in Al-Qanater Prison for Women, Adly highlighted that most women and girls prosecuted for prostitution during her time spent behind bars “were [...] from a level of poverty that infuriates one’s conscience”. According to the [testimonies](#) of legal experts and advocates of women’s rights, most women and girls engaged in prostitution have been trafficked into the business. According to Nada Nashaat, lawyer and advocacy coordinator at the Centre for Egyptian Women’s Legal Assistance ([CEWLA](#)), “[women and girls] are often forced to become sex workers whether due to their low incomes, their families having forced them into prostitution, or they were traumatized and considered it a way to get out”. Women forced into prostitution should be referred to as “trafficked” rather than “sex workers”. Most cases Nashaat has dealt with pertained to women who were forced to turn to prostitution either for having children with school needs or for having to take care of an elderly or sick member of the family. In some cases, it is the women themselves who were ill and required money for medicine. As such, an important legal nuance to be made lies in that a woman can only be considered a sex worker if “she is not compelled to [work in the business], she needs no money, she is well-educated, and she is determined to [become a sex worker] because this is her right”.

In its annual report on Egypt for the year 2016, the US State Department’s Office to Monitor and Combat Trafficking in Persons placed Egypt on its Tier 2 Watch List — a list of countries where trafficking remains an increasingly significant issue. According to the [report](#), despite efforts, “Egypt is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking”.

- **Who is responsible for the perpetration of violence against women and girls in prostitution? How effective have legislative frameworks and policies been in preventing and responding to violence against women and girls in prostitution?**

In this section, CFJ seeks to explore the complicity of the Egyptian State, particularly the Egyptian Justice System, in the perpetration of violence against women and girls in prostitution.

Prostitution is criminalized under the Law on Combating Prostitution, [No. 10 of 1961](#). In fact, Article 1 states that: “(a) Whoever incites a person, be they male or female, to engage in debauchery or in prostitution, or assists in this or facilitates it, and similarly whoever employs a

person or tempts him or induces him with the intention of engaging in debauchery or prostitution, is to be sentenced to imprisonment for a period not less than one year and not more than three years and a fine between 100 and 300 LE in the Egyptian administration and between 1000 and 3000 Lira in the Syrian administration”. Nevertheless, ambiguity in the text of Law 10/1961 has paved the way for the emergence of pervasive judicial practices. The most significant problem with the anti-prostitution law pertains to the double standard application and interpretation of the law which exclusively protects men but not female sex workers.

In fact, rulings² of the Egyptian Court of Cassation have systematically acquitted men charged with buying sex from women. According to rulings of the Court of Cassation, a man who buys sex from women “habitually practicing prostitution” shall not be accused of being a partner in this habitual crime. This is because partnership, as interpreted by the courts, requires that the man assists the woman who is “habitually practicing prostitution” with means that would enable her continuing engagement in sex work. The court stated in Challenge no. 24450/Y59 (Session 5 December 1994) that *“the crime of incitement to commit debauchery or prostitution [...] is only upheld against a person inciting another, or assisting them, in the practice of vice with others indiscriminately, or facilitating this for them. It is not upheld when the act is committed by the inciter for the aim of practicing vice with the incited. The crime of assisting a woman to practice prostitution is only upheld if this assistance takes the form of monetary expenditure on the woman. It is also not upheld if the expenditure on the prostitute is for the purpose of securing her access to prostitution; expenditure requires an element of time continuity, whether long or short”*.

In other words, if there is a proof of cash exchange for sexual intercourse, the man involved is not prosecuted, but is instead considered a witness for the prosecution. Such law is fundamentally discriminating through its systematic punishing of women without examining their jarring backgrounds and the root causes that often forces them into this field while exonerating men from any charges, thereby exacerbating violence perpetrated against women and girls in prostitution.

Furthermore, according to the legal [analysis](#) of the Egyptian Center for Personal Rights, it is not possible to charge a man with habitual debauchery for engaging in sexual intercourse with women even if the element of habituality has been established. This is because the law interprets habitual prostitution as a woman having sex with men indiscriminately, while debauchery is interpreted as the act of a man having sex with other men indiscriminately. This means that if a man is to have sex with women indiscriminately, according to the rulings of the Court of Cassation, he does not face a penalty.

With this evidence in mind, CFJ deplors the discriminatory nature of the Anti-Prostitution Law which further jeopardizes the security of girls and women in prostitution as well as the complicit

² Reference to the specific rulings may be found on the EIPR’s [report](#).

role of the Egyptian Judicial System in further institutionalizing gender inequalities in the interpretation and application of the law.

- **Are frontline organizations and survivors' organizations sufficiently included in policymaking at the national and international level? What are the obstacles faced by organizations and frontline service providers in their mission to support victims and survivors of prostitution?**

For the past decade, the Centre for Egyptian Women's Legal Assistance has endeavored to amend Law No. 10 of 1961 to also punish men who pay in order to receive sexual favors and actually exploits the [sex worker's] need for money.

Although organizations like CEWLA is advocating for increased protection of the rights of victims and survivors of prostitution, the organization is only permitted to offer help to any prosecuted sex worker only if it is determined that they were trafficked into prostitution. Furthermore, the institutionalized social stigma as well as non-protective laws surrounding sex work has rendered their task much more difficult to undertake.

- **Provide examples of the hidden forms of prostitution, and explain to what extent they are recognized and dealt with as such?**

In 2015, pursuant the adoption of [Decree 9200 \(2015\)](#) by the former Egyptian Minister of Justice, **Ahmed El-Zend**, a foreign man who wishes to enter into marriage must provide investment certificates with a periodic return of 50,000 pounds payable to the woman that he wishes to marry if the age difference between the prospective spouses is greater than 25 years. [Various](#) Egyptian Human Rights Organizations have denounced the decree as a form of legalized slavery, legitimizing the trafficking and exploitation of girls from poor families to wealthy Arab men, particularly from Gulf countries. According to the [EIPR](#), "it is naïve to think that the sum of 50,000 can effectively prevent such commercial marriages. On the contrary, it may act to increase the rate of seasonal marriages, particularly given the lack of oversight and the stamp of approval this measure provides". In fact, the old documentation law, [No. 68 of 1947](#), was more protective in that it only allowed marriages between foreign men and Egyptian women if the age difference between the prospective couple exceeded 25 years with the approval of the minister of justice or his deputy.

The former Minister of Justice therefore failed to bring the decree in line with the [Anti-Trafficking Law No. 64 of 2010](#), further exacerbating violence against women and girls by allowing and entrenching in the law dubious marriages which amount to human trafficking . In fact, the United Nations Committee on the Elimination of All Forms of Discrimination against Women in 2010 described this type of marriage in its concluding [observations to the Egyptian government](#) as a form of human trafficking and a negative phenomenon that ought to be combatted. Furthermore,

the 2015 decree is also a violation of both domestic laws and Egypt's commitments under the [Palermo Protocol](#) to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, a supplement to the UN Convention on Transnational Organized Crime.

- Conclusion:

CFJ has attempted to demonstrate throughout this report that women and girls in Egypt continue to lack adequate protection from sexual and gender-based violence, as well as gender discrimination in law and practice, especially in the field of prostitution. In order to combat prostitution and human trafficking for the purpose of sexual exploitation, the rights of women and girls, especially those belonging to the marginalized sectors of society, must be recognized, protected, fulfilled, and promoted by the State. Access to information may support such efforts in that data about prostitution or sex trafficking remains opaque and inaccessible. Transparency is key to ensure the prevention and cessation of, and accountability for, violence perpetrated against women and girls in prostitution.

* **Date:** 31 January 2024.

Place: Geneva, Switzerland.

* **Author:** Laïla Elsherif, Human Rights and Legal Officer.

* **Signature of the Executive Director of Committee for Justice:**

