



Feminist bodies demand action to make abortion safe for women

Make Global Day of Action for Access to Safe Abortion, September 28, an international UN day

Egyptian law must be amended to guarantee women's right to access safe abortion if continuation of pregnancy is a threat to their life or health and in cases of rape

In 1990, the women's health movement declared September 28 to be a day for global action for the decriminalization of abortion. Since that time, the day has been observed annually by feminist movements and civil society organizations in numerous countries through the release of reports, the publication of articles, or the organization of marches or art exhibits. This year, in the framework of celebrations of the Global Day of Action for Access to Safe Abortion, the international campaign for women's right to safe abortion submitted a proposal to the UN Secretary-General and various UN agencies to declare September 28 an official UN day for safe abortion.

As part of the campaign, the Egyptian Initiative for Personal Rights and the global alliance Realizing Sexual and Reproductive Justice (RESURJ) are again calling on the Egyptian legislator to amend legal provisions on abortion to guarantee women's access to safe abortion in cases where pregnancy constitutes a threat to the woman's life or health or if the pregnancy is the result of rape.

The two note that when it comes to abortion, Egypt is one of the most restrictive countries in the world. Egyptian law does not permit abortion on any grounds, and it does not allow survivors of rape or incest to exercise their right to terminate unwanted pregnancies resulting from rape. The law also punishes women who intentionally abort a pregnancy with imprisonment. We believe it is time to reconsider the provisions in the Penal Code on abortion. Women in Egypt are living under an outdated law, adopted in the 1930s in an attempt to mimic French law at the time.

While similar laws restricting abortion have been amended in most countries, the law in Egypt remains unchanged.

The two also note that the sole exception in the law is in the physicians' Code of Ethics, which permits doctors to conduct an abortion in the case of threats to the mother's life or her health. This exception, however, represents only a moral, not a legal duty. These legal provisions constitute a serious restriction of women's right to access safe abortion in many cases and a grave violation of their right to life, health, sexual integrity, and privacy, as well as their right to make decisions about their bodies. We therefore call upon the Egyptian government to:

- Repeal Article 262 of the Penal Code that levies penalties on women who have illegal abortions.
- Make women's right to access abortion in life- or health-threatening cases a right guaranteed by law by amending the Penal Code to permit women to seek abortions and require doctors to provide this medical service in defined cases.
- Amend the law to permit survivors of rape and incest to access safe, legal abortion.

The legal origins of the criminalization of intentional abortion

Abortion was first criminalized under the Penal Code on November 13, 1883 in the era of Khedive Tawfiq, which followed in the tracks of the French Penal Code. The provisions on abortion are in Chapter 3, on the termination of pregnancy and the manufacture and sale of hazardous, adulterated potables in Articles 239, 240, 241, and 242. These articles are still in force today under Law 58/1937, with the exception of the statute that provides for no punishment for attempted abortion, which was added to the Egyptian Penal Code (Law 4/1904). This demonstrates the colonial roots of the criminalization of abortion, in contrast to the widespread belief that the proscription is linked to religion.

The criminalization of abortion in Egyptian law is thus inspired by French culture, which at the time was influenced by canon law. French law prior to the French revolution considered abortion on par with murder, regardless of when the abortion was carried out.

French abortion law has been amended numerous times since then. The most recent amendment in 1975 made abortion permissible under certain conditions within the first ten weeks of pregnancy and allowed a medical exception for abortion at any stage of pregnancy if necessary to save the mother's life or health, or if the fetus had an irremediable terminal illness. But Egyptian abortion law has remained unchanged since the 1930s.

Several Arab states have more liberal abortion laws, allowing it if the pregnancy poses a danger to the life or physical health of the mother, as in Algeria. Sudan permits abortion in pregnancies resulting from rape, while Tunisia allows abortion on numerous grounds, including to preserve the woman's mental health.

Abortion in Egyptian law

Egyptian law criminalizes abortion under Chapter 3 of Book 3 on felonies and misdemeanors involving induced miscarriages, in Articles 260, 261, 262, 263, and 264.

Article 260: Everyone who intentionally induces a miscarriage in a pregnant woman with a blow or similar type of harm shall be subject to a defined term of hard labor.

Article 261: Everyone who intentionally induces a miscarriage in a pregnant woman by giving her medication or by using means leading to such or by directing her to them, with or without her consent, shall be subject to imprisonment.

Article 262: A woman who willingly and knowingly takes medication or willingly uses the aforementioned means, or enables another party to use such means, thereby inducing a miscarriage shall be subject to the aforementioned penalty.

Article 263: If the person inducing the miscarriage is a doctor, surgeon, pharmacist, or midwife, he shall be subject to a defined term of hard labor.

Article 264: There shall be no penalty for attempted induced miscarriage.