



## Judicial Trends in Applying the Death Penalty to Women

*A Legal Study*

October 2025



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### Introduction

The death penalty has long faced regional and global criticism as the most extreme form of state-sanctioned violence. The objections stem from several factors, including its failure to achieve effective deterrence, the impossibility of correcting wrongful executions, and its disproportionate impact on marginalized groups, most notably, women.

Against the bleak backdrop of Egypt's criminal justice system, the experiences of women facing death sentences have received little attention. This neglect is due, first, to the scarcity of reports and studies addressing the differences between women and men sentenced to death, and second, to the deep-rooted perception within Egyptian society that the death penalty constitutes a legitimate form of retributive justice, both legally and religiously.

The Middle East remains among the regions with the highest execution rates in the world, though the proportion of women sentenced to death varies across countries. In Iraq, for example, 25 women were sentenced to death out of 1,724 prisoners in 2014, about 1.4%<sup>1</sup>, and in recent years, that number has grown to 560 women prosecuted for alleged support or membership in the so-called Islamic State (ISIS)<sup>2</sup>, crimes that carry the death penalty. In the United Arab Emirates, by June 2018, nine women were under death sentence out of a total of 200 prisoners; all but one were foreign nationals, most of them migrant domestic workers<sup>3</sup>.

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<sup>1</sup> U.N. Office of the High Commissioner for Human Rights and U.N. Assistance Mission for Iraq Human Rights Office, Report on the Death Penalty in Iraq, p. 21, Oct. 2014.

<sup>2</sup> Iraq: 15 Turkish women face death penalty over Isis membership, The Independent, Published on Feb. 26, 2018.

<sup>3</sup> A Global Overview of Women Facing the Death Penalty, Cornell Law School, p. Sep. 1, 2018.

In Egypt, between 2023 and 2024, courts issued 963 death sentences, including 84 against women, representing 8.2% of all such judgments<sup>4</sup>. In 2025, the same trend continued: during the first six months alone, 31 death sentences were issued against women out of a total of 342, accounting for 8.3% of all death sentences<sup>5</sup>.

Under Egyptian law, the death penalty is prescribed for more than 55 offenses, distributed across the Criminal Code, the Anti-Narcotics Law, and the Counter-Terrorism Law<sup>6</sup>. However, this study focuses specifically on homicide cases, particularly those committed by women, in order to examine how Egyptian courts treat women accused of murder, and to identify disparities in sentencing outcomes between men and women convicted of similar crimes.

In Egyptian legislation, the death penalty is a discretionary punishment, as the legislator does not oblige the criminal court to impose it; instead, judges are granted discretionary authority to either apply or mitigate it, in accordance with Article 17 of the Criminal Code<sup>7</sup>.

Through this study, we aim to uncover gender disparities in the application of the death penalty in Egypt, an issue with significant human rights, social, and cultural dimensions. The research seeks to shed light on how social values, particularly notions of honour, influence judicial rulings against women, thereby exposing systemic discrimination within the justice system. It also examines domestic

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<sup>4</sup> The Road to the Gallows Report, Stop the Death Penalty in Egypt Campaign, Egyptian Commission for Rights and Freedoms, 2023/2024, p. 5.

<sup>5</sup> The Road to the Gallows Report, previously cited source. It should be noted that these figures are under review and verification by researchers at the Egyptian Commission for Rights and Freedoms, and the report's methodology relies on news and media sources.

<sup>6</sup> 35 offenses are punishable by death under the Criminal Code, 10 under the Anti-Narcotics Law, and 15 others under the Anti-Terrorism Law.

<sup>7</sup> Article 17 of Law No. 58 of 1937 of the Penal Code:

"In felony cases, if the circumstances of the crime for which the public prosecution has been brought call for judicial leniency, the court may substitute the penalty as follows:

- The death penalty may be replaced with life imprisonment or rigorous imprisonment.
- Life imprisonment may be replaced with rigorous imprisonment or imprisonment.
- Rigorous imprisonment may be replaced with imprisonment or detention for not less than six months.
- Imprisonment may be replaced with detention for not less than three months."

violence as a driving factor behind crimes that may result in death sentences, a dimension often overlooked by courts during sentencing.

The study pursues these objectives by reviewing several case files of women sentenced to death and comparing them with similar cases involving male defendants, employing a qualitative analysis to explore how honor-based values shape judicial decisions, using selected case studies that highlight mitigating factors frequently disregarded by judges.

### Chapter One: Gender Perspectives on Criminal Punishment

Gender plays a central role in shaping the outcomes of the criminal justice system, influencing every stage of legal proceedings, from arrest and investigation to the final judgment before the competent court. Despite the efforts of legislative and judicial authorities to maintain neutrality between men and women in accordance with established legal and constitutional principles, there remain significant disparities in the issuance of criminal judgments. These disparities are not incidental, as some might assume, but are deeply rooted in cultural norms, social attitudes, and judicial biases that vary depending on the context of each case<sup>8</sup>. Such norms, attitudes, and biases constitute key challenges facing Egypt's criminal justice system in its attempt to apply a balanced approach that considers the complex social and psychological factors influencing defendants' behavior.

#### The Impact of Gender and Violence on Criminal Trial Outcomes

The contexts of violence observed during criminal trials reflect prevailing societal perceptions about what behaviors are considered acceptable or unacceptable for women and men, regardless of the provisions of the law. For instance, men are expected, and even encouraged by society, to defend their honor and express anger through violence, including homicide. This social perception of men's use of violence often leads, in many judicial contexts, to mitigated sentences or leniency in punishment. However, such leniency is rarely extended to women

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<sup>8</sup> Gender and Criminal Sentencing: A Comparative Analysis of Global Judicial Biases and Reform Efforts, journal of Education, Humanities and Social Sciences, University of Michigan, Volume 42, 2024.

who engage in the same violent behavior, even though the law criminalizes such acts equally in both cases<sup>9</sup>.

From this perspective, the criminal judge, as a member of society, is inevitably influenced by these social expectations. His perception of criminal behavior and his understanding of the context in which violence occurs play an essential role in shaping his conviction about the case before him, and thus in determining the course and outcome of the criminal trial. The judge's ability, or inability, to empathize with the defendant's actions, or his sense of disgust toward them, directly affects his perception of the defendant's responsibility for the crime, and consequently, the severity of the sentence he decides to impose.

Constitutional principles within the judicial system establish that the right to a fair trial is most essential in criminal proceedings, regardless of the nature or gravity of the offense. From a constitutional jurisprudence perspective, a fair trial fundamentally ensures that punishment is not misused or distorted beyond its legitimate objectives. This principle safeguards against the judicial authority exceeding its powers when imposing penalties, ensuring that sentencing remains consistent with the ultimate purposes of criminal law.

These purposes are undermined when the conviction of a defendant becomes an end, or when the rules governing the trial contradict the true concept of administering criminal justice effectively. To achieve the objectives of criminal justice, the legal framework under which a defendant is tried must adhere to a set of values that guarantee the accused a minimum level of protection, which cannot be diminished or violated under any circumstances.

According to this legal doctrine, the discretionary power of a criminal judge is constrained by these constitutional principles when determining sentences. The foundation of criminal punishment lies in its reasonableness; thus, judicial intervention must be limited so that punishment does not become an unjustified source of suffering or a harsh measure applied without necessity<sup>10</sup>.

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<sup>9</sup> Anne M. Coughlin, *Excusing Women*, 82 Calif. L. Rev. 1, 32, 44 (1994)

<sup>10</sup> Supreme Constitutional Court, Constitutional Case No. 88 of Judicial Year 36, Judgment dated 14 February 2015, Issue No. 8 (bis W), Official Gazette.

Although the Criminal Code prescribes specific penalties for each crime, the legislator has granted judges discretionary authority to mitigate sentences under Article 17 of the Code. In practice, however, the prevailing trend in judicial application, particularly in cases of premeditated murder, often diverges sharply from this principle. In most such cases, judicial conviction, and consequently, the exercise of discretion, leans toward guilt and severity in punishment. Statistics show that approximately 1,000 death sentences have been issued over the past two years alone<sup>11</sup>, reflecting a clear inconsistency between judicial practice and the constitutional and jurisprudential foundations governing the proportionality and moderation of punishment.

This analysis does not arise in a vacuum, since constitutional criminal jurisprudence holds that punishment for an act is justified only when it serves a social purpose. If a punishment exceeds the limits of what is necessary to achieve that purpose, it becomes unconstitutional. Moreover, this legal theory emphasizes that defendants must not be treated as a uniform category, nor should they be viewed as fitting into a single mold.

But what does this mean in practice?

The fundamental constitutional principles establish the social dimension of criminal sentencing, which, although often neglected in practice, must be taken into account when determining punishment. Each case has its own social and personal circumstances that should guide the judge's assessment of an appropriate sentence. Ultimately, the criminal judge must consider several factors, including the defendant's age, social background, the circumstances that led to the criminal behavior, and the defendant's gender. This does not imply that all offenders should be absolved of guilt, but rather that the constitutional aim of punishment is to apply it in a manner that promotes the defendant's rehabilitation and reintegration into society.

However, the prevailing tendency among most criminal courts to convict defendants and impose the harshest possible penalties often prevents judges

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<sup>11</sup> Egyptian Commission for Rights and Freedoms Report, previously cited source.

from examining the specific circumstances surrounding each case. This approach confines the judge within procedural formalities established by the executive authorities during the referral process, resulting in a clear constitutional violation as discussed earlier. Consequently, all offenders are treated as though they share identical circumstances, and each case becomes stripped of its social and psychological context, leaving judgments to be shaped by each judge's personal conviction rather than by constitutional principles.

### **Gender-Based Discrimination in Sentencing for “Honor Crimes”, (*Legal Provisions and Judicial Practice*)**

The question that concerns us in this study is whether this judicial doctrine, or rather the judge's mindset, distinguishes between defendants on the basis of gender. To answer this question, it is necessary to first clarify the following:

From a constitutional perspective, the legitimacy of punishment depends on each judge's exercise of discretion to apply and adjust sentences in a manner that ensures reasonableness and humanity, correcting the harm caused by the crime rather than serving as an act of retribution. This requires that judges take into account the social and psychological elements surrounding each case, as an essential attribute of judicial competence. Only then can judges determine a punishment that fits the unique circumstances of each case, ensuring that the sentence is not detached from its broader context. Otherwise, punishment becomes rigid, excessive, and devoid of justice, violating the principles of fairness and proportionality that underpin the rule of law<sup>12</sup>.

Accordingly, we are confronted here with two main problems. The first is the judiciary's failure to apply constitutional criminal principles when determining sentences, particularly by neglecting to consider the social and psychological elements and the individual circumstances surrounding each case. As a result, punishments are often imposed without evaluating whether they are proportionate to the overall nature of the offense. The second problem lies in the discriminatory provisions within the Criminal Code itself, which prescribe

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<sup>12</sup> Supreme Constitutional Court, Constitutional Case No. 88 of Judicial Year 36, Judgment dated 14 February 2015, Issue No. 8 (Supplement W), Official Gazette.

different penalties for the same offense depending on the gender of the perpetrator. But how does this discrimination manifest?

For example, Egyptian law exhibits clear gender-based discrimination in the offense of adultery. Article 276 of the Criminal Code restricts the types of evidence admissible to prove the offense against a man (the husband) to very specific circumstances, such as being caught in the act, confession, the existence of written correspondence, or proof that the wife was aware of the adultery occurring within the marital home. These stringent evidentiary requirements make it significantly more difficult to convict a man and afford him relative protection from prosecution outside these narrow conditions.

In contrast, proving the offense against a woman (the wife) is permitted through all general means of evidence, without comparable restrictions, thereby increasing the pressure on women and making convictions easier in nearly any circumstance<sup>13</sup>. Furthermore, criminal jurisprudence interprets the relevant provisions of the adultery law in such a way that the man in question is not considered an “adulterer” in his own right, but merely as a partner in the wife’s adultery.

This disparity in procedures and evidentiary rules serves as clear evidence of inequality before the law, reinforcing the stereotypical perception of women as guardians of chastity while disregarding the principle of balanced legal protection for all parties. Such an imbalance contradicts the constitutional principle of equality, which guarantees that all individuals share the same legal standing before the courts.

### Legal Issues Enabling Gender-Based Discrimination in Sentencing

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) defines discrimination as: “Any distinction, exclusion, or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital

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<sup>13</sup> Nqobizwe Mvelo Ngema, “Regulation of Adultery (Zina) in the Context of Egyptian Human Rights,” *Perspectives of Law and Public Administration*, Vol. 12, No. 2, June 2023.

status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.”

The Egyptian Criminal Code contains numerous provisions that discriminate against women, grounded in the unequal legal status assigned to men and women despite the identical nature of the offenses in question. Such provisions clearly violate constitutional principles and Egypt’s international obligations. Despite repeated national and international calls for reform, these discriminatory articles remain in force. This section will focus on four key provisions that illustrate this inequality.

### Article 60 of the Criminal Code<sup>14</sup>

This article is one of four provisions that fall under the section titled “Grounds of Justification and Exemption from Criminal Liability.” In essence, if the accused commits an act that is deemed to be the application of a rule of Islamic Sharia, the act is excluded from the realm of criminality and considered permissible, thereby exempting the offender from punishment.

The problem with this article lies in its frequent judicial application as a defense mechanism for husbands, legitimizing the so-called “right to discipline” their wives. In effect, this provision indirectly legalizes domestic violence, allowing men to physically assault their wives under the pretext of discipline. Such acts often result in psychological trauma, physical injuries, permanent disabilities, or even the woman’s death.

Beyond its legal misuse, this concept is also socially accepted and normalized. The husband’s “right to discipline” his wife is widely regarded as legitimate, and women who object or seek help are often advised to be patient and endure it. For instance, in a case before the Bagour District Court in Monufia Governorate, the Public Prosecution referred a husband to trial for deliberately assaulting his wife, causing injuries described in the medical report that required up to 20 days

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<sup>14</sup> Article 60 of Penal Code No. 58 of 1937: “The provisions of the Penal Code shall not apply to any act committed in good faith in accordance with a right established under Islamic Sharia.”

of treatment. The court acquitted him, ruling that the accused had exercised his legitimate right under Sharia to discipline his wife<sup>15</sup>.

### Article 237 of the Criminal Code<sup>16</sup>

This provision allows a husband who discovers his wife committing adultery and kills her and her partner to be punished only by imprisonment for up to three years. In contrast, if a wife were to kill her husband under the same circumstances, she would face life imprisonment or the death penalty. The crime and motive are identical, yet the punishments differ dramatically.

Similarly, the law punishes a wife convicted of adultery with two years' imprisonment, while allowing the husband to pardon her by resuming marital relations under Article 247<sup>17</sup>. A husband, however, faces only six months' imprisonment if caught committing adultery in his marital home, and he incurs no penalty at all if the act occurs elsewhere, as stipulated in Article 277<sup>18</sup>. In both cases, the wife has no reciprocal legal rights.

These provisions reflect the logic of traditional "Gender Role Theory", under which the legislator relies on cultural stereotypes that portray women as guardians of family honor. As a result, women are subjected to harsher penalties for the same offenses, while men receive leniency on the assumption that their actions are defensive responses to protect family dignity. Although these notions originate in cultural and social norms, the legislator has institutionalized them within the legal framework, thereby reinforcing gender inequality. Consequently,

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<sup>15</sup> Court of Cassation – Criminal Division – Appeal No. 1132 of Judicial Year 45 – Technical Office, Vol. 26, Part 1, p. 672 – Principle No. 146.

<sup>16</sup> Article 237 of Penal Code No. 58 of 1937: "A husband who surprises his wife in the act of adultery and kills her immediately, together with her partner, shall be punished with imprisonment instead of temporary or life imprisonment."

<sup>17</sup> Article 274 of Penal Code No. 58 of 1937: "A married woman who is proven to have committed adultery shall be punished with imprisonment for a period not exceeding two years, but her husband may suspend the execution of this sentence if he consents to resume marital relations with her as before."

<sup>18</sup> Article 277 of Penal Code No. 58 of 1937: "Any husband who commits adultery in the marital home and is proven guilty upon his wife's complaint shall be punished with imprisonment for a period not exceeding six months."

women who deviate from traditional gender roles are more likely to face severe and disproportionate punishment<sup>19</sup>.

This blatant disparity in punishment between male and female offenders in “honor-related” crimes normalizes societal violence against women. The judicial system, by perpetuating this inequality, fails to protect women effectively, leaving many victims of domestic violence with no recourse but to resort to violence themselves as a form of self-defense.

Numerous academic studies indicate that women who kill their husbands often act within a social and legal structure that reinforces male dominance and suppresses female agency<sup>20</sup>. Many women resort to violence as a reaction to prolonged domestic abuse, which escalates to lethal violence, including premeditated murder. In a study of ten women sentenced to death for killing their husbands, all reported experiencing severe domestic violence prior to committing the offense<sup>21</sup>.

This harsh reality of the cycle of violence, both endured and reproduced, reveals profound flaws in Egypt’s legal system and judicial practice. It exposes not only the state’s failure to protect abused women, but also the systemic bias that punishes women more harshly than men for similar acts of violence, thereby perpetuating structural gender injustice.

## Chapter Two: Analysis of Death Penalty Cases Involving Women

The application of the death penalty to women convicted of serious crimes, particularly premeditated murder, raises fundamental questions about justice and gender equality. Women sentenced to death are often convicted in cases connected to domestic violence or prevailing cultural norms, and they frequently

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<sup>19</sup> J B Johnston; T D Kennedy; I G Shuman, Gender Differences in the Sentencing of Felony Offenders, Federal Probation Volume: 51 Issue: 1, Pages: 49-55.

<sup>20</sup> Nawal H. Ammar, The Relationship Between Street Children and the Justice System in Egypt, 53 INT J OFFENDER THER COMP CRIMINOL 556 (2009)

<sup>21</sup> Amina Mohamed Biomy, Sociological Analysis of Wives’ Violence: A Case Study in Egypt. at 458.

face judicial systems influenced by entrenched stereotypes that fail to take into account their specific circumstances.

In societies such as Egypt, where patriarchal values dominate, women represent a relatively small proportion of those executed, ranging between 8% and 10%<sup>22</sup>, yet their cases disproportionately reveal deep structural gaps within both the legal and judicial systems. This is largely due to the rigidity of laws and the limited consideration of mitigating factors, such as domestic violence, which is often a central driver behind women's acts of homicide.

Globally, the gender of judges and cultural biases influence sentencing outcomes. Some women receive leniency based on stereotypical perceptions of femininity and vulnerability, while others face harsher punishments when they transgress traditional gender norms or expectations of female behavior.

This chapter examines capital trials involving female defendants, exploring how judicial decision-making, cultural attitudes, and the legal framework shape sentencing outcomes. Through a review of selected case studies, the chapter seeks to shed light on the complexities and concerns surrounding such judgments, calling for a more equitable and gender-sensitive judicial system.

### Review and Analysis of Real Cases

#### Death Penalty Cases Involving Women

##### Case One<sup>23</sup>

In this case, a mother from the village of Al-Qurna in Luxor was accused of killing her 16-year-old daughter after suspecting her of immoral behavior. The mother allegedly mixed a sedative into her daughter's juice, and once the girl lost consciousness, she suffocated her by pressing a wet cloth over her nose and mouth until she died. The Luxor Criminal Court sentenced the mother to death after the Public Prosecution charged her with premeditated murder.

In the reasoning of its verdict, the court described the mother as follows:

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<sup>22</sup> *Egyptian Commission for Rights and Freedoms Report – previously cited source.*

<sup>23</sup> Case No. 6242 of 2023, registered as Case No. 1424 of 2023, Luxor Criminal Court (First Instance).

**“A mother, once known as a source of tenderness, became in a moment a source of cruelty and betrayal. This case is foreign to our society, as she took her daughter’s life without mercy or compassion under the pretext of doubting her behavior. She extinguished an innocent soul and forgot God’s words: ‘O you who have believed, if there comes to you a disobedient one with information, investigate, lest you harm a people out of ignorance and become, over what you have done, regretful.’”**

### **Case Two<sup>24</sup>**

**The events of this case revolve around a mother who killed her only son while he was sleeping beside her. She reportedly used a headscarf to tighten around his neck, placed a pillow over his face, and held it down until he suffocated to death.**

**The Mansoura Criminal Court sentenced the mother to death, basing its ruling on the testimonies of the defendant’s sister and brother-in-law, as well as on the findings of the police investigation. The evidence collectively indicated that the accused had killed her son due to ongoing conflicts with her husband’s family, who had accused her of immoral relationships with men and of disreputable conduct.**

**Before the court, the defendant stated that since her marriage she had been subjected to constant pressure and defamation by her husband’s family, who spread rumors about her alleged relationships with men and publicly shamed her on social media. She added that she had left the marital home because of repeated assaults and humiliation by her in-laws, though she continued to ensure that her husband’s family maintained contact with her son. She insisted that she had loved her son and did not comprehend how she could have killed him, saying:**

**“Until now, I can’t believe I killed my own child. It was because of all the pressure I was under. I didn’t feel myself when I was holding him down. My husband**

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<sup>24</sup> Case No. 23556 of 2023, Sanbalawain Criminal Court, registered as Case No. 2400 of 2023, South Mansoura Criminal Court (First Instance).

always believed what his family said about me. I lived in torment, and now I don't even know if he divorced me or if I'm still his wife.<sup>25</sup>"

### Case Three<sup>26</sup>

In this case, a 20-year-old woman was accused, together with her 16-year-old partner, of killing her mother after the latter discovered their intimate relationship. The relationship between the two defendants had developed as they lived in the same neighborhood and frequently met inside the young woman's family home. When the mother found out about their relationship, she threatened to inform the father, which caused fear and anxiety in both defendants, leading them to decide to kill her.

The Public Prosecution referred the case to the Port Said Criminal Court, charging the defendants with criminal conspiracy and premeditated murder. The court sentenced the young woman to death, while the juvenile defendant was placed in a correctional institution in Cairo.

In its closing arguments, the prosecution described the main defendant as "an ungrateful daughter who betrayed her family," adding that "the tragedy lies in the disgrace of a mother whose daughter murdered her in order to maintain a deviant relationship with a boy four years her junior." The prosecution further stated, "How could a girl who has lost all sense of compassion kill her own mother so brutally for the sake of lust?"<sup>27</sup>

During the trial, the victim's husband, the father of the main defendant, submitted a civil claim waiver, pleading for leniency toward his daughter. However, the court rejected the appeal, and the Court of Cassation's criminal chamber upheld the death sentence against the defendant.

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<sup>25</sup> <https://www.youm7.com/6807096>

<sup>26</sup> Case No. 816 of 2022, Port Fouad Second Criminal Court, registered as Case No. 1564 of 2022, Port Said Criminal Court (First Instance).

<sup>27</sup> [https://www.masrawy.com/news/news\\_cases/details/2025/5/19/2789900/%D9%85%D9%86-%D8%A3%D8%AC%D9%84-%D8%B9%D9%84%D8%A7%D9%82%D8%A9-%D9%85-%D8%AD%D8%B1%D9%85%D8%A9-%D9%85%D8%B9-%D8%B7%D9%81%D9%84-%D9%83%D9%8A%D9%81-%D8%A3%D9%86%D9%87%D8%AA-%D9%86%D9%88%D8%B1%D9%87%D8%A7%D9%86-%D8%AD%D9%8A%D8%A7%D8%A9-%D9%88%D8%A7%D9%84%D8%AF%D8%AA%D9%87%D8%A7-%D9%81%D9%8A-%D8%A8%D9%88%D8%B1%D8%B3%D8%B9%D9%8A%D8%AF-](https://www.masrawy.com/news/news_cases/details/2025/5/19/2789900/%D9%85%D9%86-%D8%A3%D8%AC%D9%84-%D8%B9%D9%84%D8%A7%D9%82%D8%A9-%D9%85-%D8%AD%D8%B1%D9%85%D8%A9-%D9%85%D8%B9-%D8%B7%D9%81%D9%84-%D9%83%D9%8A%D9%81-%D8%A3%D9%86%D9%87%D8%AA-%D9%86%D9%88%D8%B1%D9%87%D8%A7%D9%86-%D8%AD%D9%8A%D8%A7%D8%A9-%D9%88%D8%A7%D9%84%D8%AF%D8%AA%D9%87%D8%A7-%D9%81%D9%8A-%D8%A8%D9%88%D8%B1%D8%B3%D8%B9%D9%8A%D8%AF-)

### Comparable Cases Involving Male Defendants

#### Case One<sup>28</sup>

The Public Prosecution accused two men in the district of Zagazig, Sharqia Governorate, of premeditated murder. The defendants had allegedly decided to kill the victim, prepared a rope for that purpose, tied her up, and then connected her to an electric wire attached to a power source, intentionally electrocuting her. The victim was the daughter of the first defendant and the sister of the second, aged fourteen.

The first defendant confessed during the prosecution's investigation that, after rumors spread in the village about his daughter's pregnancy, he and his son decided to kill her. The court concluded from the overall circumstances of the case that, once the news of the pregnancy spread and the scandal circulated throughout the village, both defendants were consumed with anger and resolved to kill the girl, believing that her death was the only way to end the disgrace. The court acknowledged that both men had formed the intent to kill.

However, the judgment went on to justify that the defendants had been overwhelmed by rage and emotional turmoil, stating that they acted under extreme anger, losing all sense of calm and rational thought after the scandal became widely known in the village. The court thus ruled that premeditation was not established, as their actions were driven by sudden fury.

The court also noted that all parties lived together in one house, which negated the element of ambush or prior lying in wait. Accordingly, it reclassified the charge from premeditated murder to simple intentional murder and sentenced both defendants to ten years of rigorous imprisonment each.

#### Case Two<sup>29</sup>

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<sup>28</sup> Zagazig Criminal Court – Public Prosecution Case No. 5311 of 2009, Zagazig District – registered as Case No. 310 of 2009, Criminal Court (First Instance).

<sup>29</sup> *Appeal No. 16767 of Judicial Year 60.*

In this case, a father was charged with premeditated murder after tying up his daughter, pouring kerosene over her, and setting her on fire, intending to kill her following an argument with his wife.

The Shibin El-Kom Criminal Court sentenced the father to seven years in prison, reclassifying the charge from premeditated murder to assault leading to death. The defense invoked Article 60 of the Criminal Code, which provides that acts committed under the right of lawful discipline are exempt from punishment<sup>30</sup>.

In its reasoning, the court explained that the father, who was accustomed to violent disputes with his wife, acted in a state of provocation and agitation, and therefore did not intend to kill his daughter. The court found that his actions reflected a lack of specific intent to commit murder, and thus, the crime amounted only to assault resulting in death rather than intentional killing.

### Case Three<sup>31</sup>

In Qalyubia Governorate, a man killed his mother following a dispute over his relationship with a sex worker whom he wanted to marry, a relationship his mother strongly opposed. The defendant went to her home, lured her into a storage room, and strangled her until she died.

The Public Prosecution referred the case to the Banha Criminal Court, charging him with premeditated murder. The court sentenced him to death by hanging. In its closing statement, the prosecution described the defendant as “an ungrateful and cowardly son, a young man at the height of his youth, dependent on his parents, who repaid kindness with treachery, driven by his evil impulses to kill his mother simply because she refused his request to marry a woman of ill repute.”<sup>32</sup>

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<sup>30</sup> Article 60 of Penal Code No. 58 of 1937: "The provisions of the Penal Code shall not apply to any act committed in good faith in the exercise of a right established under Islamic Sharia."

<sup>31</sup> Case No. 13025 of 2024, Al-Khanka Misdemeanor Court, registered as Case No. 1770 of 2024, General Registry, North Banha.

<sup>32</sup>

[https://www.masrawy.com/news/news\\_regions/details/2024/10/19/2660566/%D8%B1%D9%81%D8%B6%D8%A-%D8%B2%D9%88%D8%A7%D8%AC%D9%87-%D9%85%D9%86-%D9%81%D8%AA%D8%A7%D8%A9-%D8%A7%D9%84%D8%A7%D8%A8%D9%86-%D8%A7%D9%84%D8%B9%D8%A7%D9%82-%D9%82%D8%AA%D9%84-%D9%88%D8%A7%D9%84%D8%AF%D8%AA%D9%87-](https://www.masrawy.com/news/news_regions/details/2024/10/19/2660566/%D8%B1%D9%81%D8%B6%D8%A-%D8%B2%D9%88%D8%A7%D8%AC%D9%87-%D9%85%D9%86-%D9%81%D8%AA%D8%A7%D8%A9-%D8%A7%D9%84%D8%A7%D8%A8%D9%86-%D8%A7%D9%84%D8%B9%D8%A7%D9%82-%D9%82%D8%AA%D9%84-%D9%88%D8%A7%D9%84%D8%AF%D8%AA%D9%87-)

In its judgment, the court stated, “You have committed an abominable act, a grave sin that shook the heavens and the earth. Do not ask this court for mercy, for you are not worthy of it. Let this sentence serve as a lesson<sup>33</sup>.”

### Differences in Sentencing and Judicial Justifications

A comparison between the presented cases indicates that the Egyptian criminal judiciary often issues rulings carrying profound social and cultural implications regarding gender roles and the boundaries of acceptable and unacceptable social behavior. In the three cases where women were sentenced to death, the courts appeared inclined toward harsher punishment when the defendant had blatantly violated the expected social role of women and mothers, a role traditionally associated with care, compassion, and family cohesion.

In the first case (a mother killing her daughter due to suspicions about her behavior), the court’s reasoning described the mother as having “turned in a moment from a source of tenderness into a source of cruelty and betrayal.” This language highlights moral and religious dimensions rather than legal reasoning, reflecting the judiciary’s perception that the crime represents not only murder but also a betrayal of motherhood itself.

The same pattern appears in the second case, where a mother killed her only son. The judgment paid little attention to the social and psychological pressures the defendant described, such as domestic violence and public defamation, relying instead on accusatory testimonies and police investigations to issue a death sentence. The implicit message was that a mother’s act of killing within the family constitutes a shocking violation of social norms that merits the harshest punishment.

In the third case, involving both an illicit sexual relationship and matricide, the court adopted an even stricter stance, refusing to grant leniency despite the father’s plea for mercy. The court justified the death sentence by framing the

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%D9%85%D8%AD%D9%81%D8%B8%D8%A9-%D8%A7%D9%84%D9%82%D8%B1%D8%A2%D9%86-%D8%A8%D8%A7%D9%84%D9%82%D9%84%D9%8A%D9%88%D8%A8%D9%8A%D8%A9

<sup>33</sup> <https://www.youtube.com/shorts/JoiAXl4g8ts>

crime as a manifestation of moral decay, thus reinforcing punishment as a means of safeguarding the family's honor system from collapse.

In contrast, the cases involving male defendants reveal a more flexible judicial approach, even when the gravity of the crimes and their "honor-related" motives were comparable. In the first case, where a father and brother killed a young girl after rumors of her pregnancy spread through their village, the court concluded that the defendants had acted in a "fit of rage," ruling that such emotional turmoil negated premeditation. The charge was downgraded to simple intentional murder, and each was sentenced to ten years of imprisonment. The ruling reflects a tendency to interpret male violence within the framework of defending family honor, leading to mitigated sentences.

Similarly, in the second case, where a father burned his daughter to death, the court reclassified the crime as assault leading to death, sentencing him to seven years in prison. The judgment even entertained the possibility of applying Article 60 of the Criminal Code, which allows for "lawful discipline," thereby legitimizing a father's authority and control over the female body within the family.

The only exception comparable to the death sentences against women is the third male case, in which a son killed his mother for refusing his marriage to a sex worker. The court sentenced him to death and described the act as "a grave crime that shook the heavens and the earth," declaring that he was unworthy of mercy. This demonstrates that matricide, given the sacred religious and social symbolism of motherhood, is perceived as an extreme moral transgression requiring the maximum penalty, much like cases in which mothers kill their children.

From this perspective, it can be said that Egyptian courts approach family-related homicides not as purely criminal acts, but as tests of how closely the offender adheres to their socially assigned role. When the offender is a woman, the crime is viewed as a betrayal of maternal duty and family care, warranting exemplary punishment to preserve the social order.

In contrast, when the offender is a man, the courts tend to allow more space for emotional or "honor-related" motives, except in cases involving matricide, which

is considered a violation of sacred social and religious limits. These rulings thus reveal a complex dynamic in which law and patriarchal culture intersect, making the judiciary an instrument for reproducing social norms around honor, obedience, and gender.

In this sense, criminal justice becomes conditional on the value system, as judicial rulings often extend beyond the scope of legal texts to function as mechanisms of social regulation. Punishment thereby serves not only as a deterrent to crime but also as a means of disciplining offenders and reintegrating them into prevailing social and gender hierarchies.

### Chapter Three: Inherited Social and Cultural Norms and Their Impact on the Discretionary Power of the Criminal Judge

#### The Concept of Honor and Gender Roles in Egyptian Culture

The concept of honor in Egyptian culture is among the most complex and influential social ideas shaping gender structures within society. Historically, honor in Egypt has been associated with the protection and cohesion of the community, revolving around the control of women's sexual behavior. The female body has been viewed as a symbol of family and social dignity<sup>34</sup>.

This perception has transformed honor into a collective value that extends beyond the individual to encompass the entire family or clan, where any perceived violation becomes a socially acceptable justification for violent retaliation, such as revenge or what are commonly known as honor crimes. From an anthropological perspective, this concept illustrates how cultural values operate as mechanisms of social control, reinforcing patriarchal power relations, in which men are tasked with protecting honor while women are held responsible for preserving it through their conduct and adherence to social norms<sup>35</sup>.

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<sup>34</sup> Baron, B. (2006). Women, honor, and the state: Evidence from Egypt. *Middle Eastern Studies*, 42(1), 1–20.

<sup>35</sup> Zakariya, J. (2020). Public feminism, female shame, and sexual violence in modern Egypt. *Journal of International Women's Studies*, 21(7), 122–139.

Such distinctions perpetuate the notion of bodily ownership of women and reinforce inequality before the law. They also contribute to slowing the pace of legal and social reform aimed at advancing gender equality. Society often produces conservative discourse centered on the perceived threat to social values tied to honor and family<sup>36</sup>.

### The Impact of These Values on Judicial Decisions

Multiple factors can influence judges when issuing rulings. These may be personal, social, or institutional, and under their influence<sup>37</sup>, a judge may lose the ability to fully understand or empathize with the complexities of human experience. This often results in mechanical judgments characterized by rigidity, preconceptions, and bias toward one party over another<sup>38</sup>.

Emotion plays a crucial role in shaping the conscience and conviction of judges, thereby influencing judicial decision-making. Emotions may lead a judge to issue rulings that are inconsistent with logic or fairness, serving the interests of one party at the expense of another. Such emotional reactions can stem from feelings of compassion, anger, or resentment, all of which can affect individuals involved in criminal proceedings, particularly the criminal judge. Personal emotions sometimes lead judges to interpret and apply laws based on their subjective perceptions and emotional inclinations rather than objective reasoning<sup>39</sup>.

The life experiences of judges can also shape their perspective and emotional responses to different cases. These experiences may give rise to what is known as empathic identification, whereby the judges unconsciously place themselves

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<sup>36</sup> Singh, H., & Pandey, D. (2025). Honor-related crimes in Egypt. In *Criminological analyses on global honor killing* (pp. 185–200).

<sup>37</sup> Bandes, Susan A., *Share your grief but not your anger: Victims and the expression of emotion in criminal justice*, Social Science Research, Peg. 4.

<sup>38</sup> Adawy, Mostafa Abdel Hamid, "The Impact of Judges' Personal Backgrounds and Media Criticism on Judicial Decisions: A Comparative Study," *Journal of Legal and Economic Research*, Vol. 23, No. 39, p. 443, May 2014.

<sup>39</sup> El-Sayed, Ibrahim Zeinab, "Social Change and Its Impact on the Legal System," Ph.D. Dissertation, Faculty of Law, Helwan University, 2022, p. 304 et seq.\*

in the position of one of the parties and empathize so deeply that they rule in favor of what that party might wish for<sup>40</sup>.

Cultural and religious values can further influence a judge's emotional responses, as personal beliefs inevitably affect his sense of justice and his inclination toward forgiveness or punishment. In cases involving female defendants, criminal judges are often harsher in their rulings compared to those against men accused of similar crimes, particularly in murder cases. This occurs because such acts deviate from the traditional image of women within society, an image that the judges themselves, as a member of that society, share.

For instance, in adultery cases, especially when the accused is a married woman, judges who are themselves married tend to impose the maximum penalty, unconsciously identifying with the image of the betrayed husband. In other cases, where a father kills his daughter on suspicion of immoral behavior, judges may be inclined to reduce the sentence out of sympathy for the father's perspective and his perceived defense of family honor.

These dynamics reveal how deeply cultural norms, emotions, and patriarchal values influence judicial discretion, shaping verdicts not solely on legal reasoning but also on the social and moral narratives surrounding gender and family<sup>41</sup>.

### Conclusion

This study reveals a clear pattern in how the Egyptian judiciary handles murder cases committed by women, as courts tend to impose harsher sentences, often reaching the death penalty, particularly in cases perceived as direct threats to traditional family values. Judicial reasoning frequently adopts moral and religious discourse, emphasizing the woman's betrayal of her "natural role" and the collapse of the nurturing and compassionate values she is expected to embody.

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<sup>40</sup> Fathy, Mohamed, "The Psychology of the Judge: Some Unconscious Factors Affecting the Judge's Conscience and the Integrity of Justice," *Journal of Law and Economics*, Vol. 13, Nos. 6–7, pp. 365–390.\*

<sup>41</sup> Behnam, Ramsis, "Judicial Psychology: A Path to the Advancement of the Justice System," Dar Misr for Publishing, 2024 Edition, p. 61.

In contrast, cases involving male perpetrators often demonstrate a more lenient judicial approach. Courts may reclassify the offense or reduce the sentence based on motives such as “defending family honor” or “acting under the influence of rage.” This pattern reflects the judiciary’s internalization of patriarchal cultural norms that grant men authority over women’s behavior, even through acts of violence.

These findings confirm that the application of the death penalty in Egypt is not entirely neutral, as it remains influenced by cultural and social contexts that reproduce gender roles and utilize the law as a tool to preserve the dominant order.

To ensure a fairer criminal justice system, the study recommends establishing clear judicial guidelines for determining punishment that take into account social and psychological circumstances, expanding the use of social and psychological background reports in cases involving complex family dynamics, and training judges and prosecutors on gender-sensitive approaches.

The study also calls for a legislative review to reduce the scope of the death penalty in light of global trends toward its limitation, while improving transparency through the publication of detailed statistical data on death sentences by gender and type of crime. Such transparency would enhance public oversight and assist researchers in evaluating the judiciary’s compliance with principles of equality and justice.

### Recommendations

- The Egyptian government should comply with Article 6 of the International Covenant on Civil and Political Rights, to which it is a party, and work toward limiting the use of the death penalty as a criminal deterrent, if not abolishing it altogether. The death penalty should be replaced with life imprisonment without the possibility of conditional pardon, limited to specific crimes such as war crimes and genocide.

- Suspend death sentences for women whose case files indicate a clear history of domestic violence, pending a comprehensive review of sentencing standards applicable to women.
- Establish an independent parliamentary committee composed of judges, members of parliament, legal experts, and women's rights advocates to review and amend laws such as Article 60 and other provisions related to honor crimes and adultery, in order to eliminate any legal justification for domestic violence or undue sentence mitigation.
- The Supreme Judicial Council should issue a mandatory judicial protocol requiring judges to investigate a defendant's history of domestic violence and to request independent social and psychological assessments before issuing any death sentence in cases involving family relationships.
- Reduce the number of crimes punishable by death under Egyptian law and restrict its application to the most serious offenses.
- Sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims at the gradual abolition of the death penalty.